
**IN THE
COURT OF APPEALS OF MARYLAND**

September Term, 2019

No. 58

IN RE: R.S.

On Writ of Certiorari

**BRIEF OF *AMICUS CURIAE*
NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN
NACC**

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INTRODUCTION

This appeal concerns applicability of the Interstate Compact on the Placement of Children (“ICPC”) to parents. The Court of Special Appeals (“COSA”) held broadly it may not be applied to parents, relying upon plain language, original intent, and desire to avoid constitutional infirmities. Appellant Maryland Dep’t. of Human Services (“DSS”), argues it *must be* applied to promote safe placement of children consistent with other child welfare laws, where few alternatives ostensibly exist, relying less on statutory text and more on expansive implementing regulations. While some states follow DSS’s reasoning, a majority have rejected it as application to parents is outside the ICPC’s scope and raises constitutional concerns. Other states that have previously endorsed its application are now retreating, imposing limitations after viewing impacts of mis-applying a tool designed for other purposes and trying to fit Pandora back into her box. They’ve experienced increasing difficulty applying the ICPC to parents consistent with constitutional protections, or avoiding ridiculous outcomes including years of separation based solely on a solitary social worker’s perception an otherwise fit father’s bedroom is too small.

No review of history informing the ICPC’s development leads to any conclusion other than it was designed to *facilitate* and provide protections *only to* interstate foster, pre-adoptive, or delinquency placements, and its adoption in Maryland reflects the same limited view. COSA rejected views of states that endorsed its use but increasingly must revisit a morass of unintended consequences: constitutional violations inherent in any process forcing parents to prove fitness through ill-defined, arbitrary procedures with no protections, that only cause more harm to children from prolonged foster care and separation. Amicus National Association of Counsel for Children (“NACC”) urges this Court to abandon this practice for good.¹

¹ Amicus incorporates Appellee’s Statement of Facts & Case, and Questions Presented.

ARGUMENT

I. The ICPC Has A Limited Scope

Interpretation of the ICPC and states' adoptions starts with comprehension of problems it was originally designed to address, and ends with certainty it was never meant to subject parents to home studies before they could be reunited with their own children.

A) ICPC's Context

In the 1950's, frameworks addressing interstate adoption or foster care were impediments to placements. Despite efforts to adapt, they were structurally incapable of responding to increased mobility and geographic imbalances between pre-adoptive parents and potential adoptees.² Problems included providing protections before children were transported interstate; inabilities to ensure continued care and supervision; and no mechanism to compel other states to provide continued services.³ The ICPC was drafted by Dr. Mitchell Wendell through the New York State Legislative Committee on Interstate Cooperation in 1960 to address those failures.⁴

B) The Intent Was To Facilitate Certain Placements And Associated Problems

Contemporaneous initiatives place the ICPC in perspective: the ARENA initiative (practically linking children with pre-adoptive parents in other states); the Revised Uniform Adoption Act ("UAA," to standardize in-state adoption processes);⁵ and the Uniform Child

2 Roberta Hunt, *Obstacles to Interstate Adoption* 17-19 (Child Welfare League of America 1972) (recounting by 1948 34 states' laws relating to interstate adoptions or foster placements were "importation" laws designed to prevent cross state "dumping" of children, while 9 had "exportation" laws attempting to extend state oversight and protections) ("Obstacles"); Secretariat to the Association of Administrators of the Interstate Compact on the Placement of Children, *Guide to the Interstate Compact on the Placement of Children* 1 (1985) ("ICPC Guide") (framework necessary to address imbalance of children with "the numbers and kinds of adults anxious and able to receive them in balance within any state or local area"). Although the ICPC Guide was written subsequent to the ICPC's drafting, its earlier versions somewhat reflect initial thoughts.

3 Bernadette W. Hartfield, *The Role of the Interstate Compact on the Placement of Children in Interstate Adoption*, 68 Neb. L. Rev. 292, 295 (1989).

4 *Draftsman's Notes on Interstate Compact on the Placement of Children* ("Draftsman's Notes"), reprinted in *Obstacles* 44.

5 ARENA ("Adoption Resource Exchange of North America") developed under the Child Welfare League of

Custody Jurisdiction Act (“UCCJA”). These and related child welfare laws were conceived as operating in complement: the ICPC as a *procedural* device facilitating interstate cooperation in limited categories of placements; ARENA’s practicality; and the UAA and UCCJA’s substantive rules on adoption and jurisdiction.⁶ This relationship with other initiatives and state laws was well understood as the ICPC was not conceived to effect substantive changes to them:

[ICPC is a] means of permitting child placement activities to be pursued throughout the country *in much the same way and with the same safeguards and services as though they were being conducted within a single state.*⁷

Or to supercede existing state laws on child welfare:

[the ICPC] does not purport to supplant existing child placement laws, but rather is a valuable supplement to them. *The Compact does not attempt to deal with all aspects of placements but only those of particular significance for interstate situations.* For example, although *Stanley v. Illinois*, 405 U. S. 645 (1972), is of great consequence in the field of child placement, *it has no special bearing on the operation of the Compact.* Such matters as relinquishment of parental rights or licensing of agencies, although of great concern in child placement are of equal importance whether the placement is intrastate or interstate. *Those placement matters which are not uniquely of interstate concern remain within the realm of individual state action.*⁸

Contemporaneous writings are clear. The ICPC was not envisioned as applying in any way to affect parental presumptions of fitness in conflict with *Stanley* or other laws. Rather, it only addressed three types of interstate placements with an assumption other laws would address implications for parents: foster care, adoptions, and delinquents.⁹

America, practically linked children needing adoption with prospective families who often resided in other states. The RUAA attempted to standardize adoptions which could be accepted by other states. *See* Obstacles, pp. 1-4 (RUAA drafting); Joel Tenenbaum, *Introducing the Uniform Adoption Act*, Family Law Quarterly 30, no. 2 (1996).

6 *See, e.g., D.S. v. Franks*, 182 Ariz. 81 (Ariz. 1995) (ICPC is a *procedural* tool for interstate cooperation in adoptions, and declining to interpret its’ provisions as negating UCCJA procedures).

7 ICPC Guide, 1.01 (emphasis added).

8 ICPC Guide, 1.03 (emphasis added).

9 ICPC Guide 1.01 (“applies to placements preliminary to possible adoptions, placements in foster care where no adoption is contemplated, and institutional placements of adjudicated delinquents needing special services or programs not available within the state.”).

This is reinforced by countless references to its limited scope: comments on the relationship between a “sending agency” and exclusions in Article VIII (sending agency includes private persons but must be read with Article VIII’s exceptions of close relatives “to protect the social and legal rights of the family” and regulation desirable only in narrow circumstances),¹⁰ or narrow conceptions of “foster care” as another limitation on placements (foster care has an established existing meaning which acts to limit the scope of placements).¹¹

Other relevant commentary reinforces a limited scope addressing *only* juvenile delinquencies and “[t]wo other and probably more numerous groups [served by the ICPC] children placed with would-be parents as a preliminary to a possible adoption, and children placed in foster care where no adoption is contemplated.”¹²

II. Maryland’s Adoption Reflects This Limited Scope

Interstate compacts are interpreted using both legislative and contractual precepts: under both approaches, plain language and meaning are informed by usage at the time; interrelation of provisions to each other are limited to the statute and its history; but intent may look to other contemporaneous actions.¹³ Although extensive historical records do not exist, what does belie a broader application, refuting suggestion the ICPC should be read in conjunction with other child welfare laws based upon legislative intent or design.

A) Adoption

The General Assembly adopted the ICPC in 1975, introduced as S.B. 18. The only

10 Draftsman’s Notes, 44.

11 Draftsman’s Notes, 44-45.

12 Brendan Callanan & Mitchell Wendell, *The Interstate Compact on the Placement of Children*, 26 Juv. Just. 41, 44 (1975).

13 Plain meaning is “controlled by the context in which it appears,” *Kaczorowski v. City of Baltimore*, 309 Md. 505, 514 (1987), which includes “a bill’s title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of legislative purpose or goal” *Id.* at 515.

amendments relate to where it was to be codified in the code, but notes suggest members of the Judicial Proceedings Committee coordinated with ICPC's administration including Dr. Wendell. That Committee included an explanation of the bill reflecting its limited scope:

Those situations to which the compact primarily addresses itself are (1) *placement preliminary to possible adoption*; (2) *placement in foster care when no adoption is likely to occur*, and (3) *placement of children adjudicated delinquent* in an institution of another state. Each child requiring placement will receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having *appropriate qualifications and facilities to provide a necessary and desirable degree and type of care*.¹⁴ (emphasis added).

B) Recodification

The Assembly recodified several statutes into the Family Law Article in 1984, making only one substantive change to the ICPC: to avoid confusion or misapplication definitions in other areas of the code *would not apply to the ICPC*. See Md. Fam. Law § 5-601(9) (“definitions in § 1-101 of this article do not apply to the [ICPC] set forth in this subtitle”); Revisor’s Notes accompanying Ch. 296, derived from H.B. 1 (noting many of the articles were being recodified without substantive change, but 5-601(9) “is new language added to avoid possible confusion over the applicability of the definitions appearing in 1-101 of this article,” and the ICPC “contains its own definitions, which are supplemented by the definitions *in this section*.”¹⁵ (emphases added).¹⁶

C) Regulations

Regulations implementing the ICPC have expanded from an originally limited scope.

14 See Amicus App. 1-19 (Committee Notes, S.B. 18, retrieved from Maryland Leg. Svcs.); 20-26 (Report to the General Assembly of 1975, Proposed Bills, excerpt of pp. 187-193, reflecting Committee Explanation and introduced bill); 27- (1984 Md. Laws, Chap. 296, excerpts of pp. 1994-2003).

15 CINA’s evolution seems to support the same conclusion. Substantive revisions to CINA in 2001 appear unconcerned with the ICPC, and if anything suggest then heightened awareness of parental rights. See Acts 2001, c. 415, § 3 (separating delinquency from CINA, expanding role of public defenders for indigent parents, changing shelter care hearing timing, and increasing review hearings).

16 Article III is codified within Md. Fam. Law § 5-604, and Article VIII within § 5-609.

The regulations most directly cited as mandating application to parents (07.02.24 and 07.02.28) either did not then exist, or have been substantially changed, and early versions reflect no intent to apply to parents. The 1977 definition of “foster care” within 07.02.11 only applied to a child “who cannot be cared for by his own family.”¹⁷ Out-of-state placement, previously only a subsection of placement: (1) contained other requirements for placement of a “foster child” in an out-of-state “foster or adoptive home” that pre-dated ICPC requirements; and (2) addressed ICPC requirements by noting that placements “of children for foster care or as a preliminary to possible adoption” must comply with the ICPC, repeating almost verbatim statutory definitions. 1989 regulations still maintained a limited definition of foster care; used the same terminology of “foster child” in an out-of-state “foster or adoptive home”; placements “of children for foster care or as a preliminary to possible adoption” would be subject to the ICPC; but removed the list of the ICPC’s statutory definitions.¹⁸

III. The ICPC’s Scope Expanded

New York adopted the ICPC in 1961, with New Jersey and the District of Columbia becoming the last states in the early 1990’s. Continued demographic changes increased the number of children in foster care as well as divorces, adding impetus for states to assess and monitor cross-state placements.¹⁹ Administrators from each state formed the Association of Administrators of the ICPC (“AAICPC”) in 1974, to provide centralized support and resources, assisted by the American Public Human Services Agency (“APHSA”) as a Secretariat, which issued model regulations and advisory opinions, several of which only later supported application to parents. Although judicial review in the 1980’s was largely confined to

¹⁷ 4:17 Md.R. 1305-1314 (Aug. 17, 1977).

¹⁸ 16:4 Md.R. 500-514 (Feb. 24, 1989).

¹⁹ Vivek Sankaran, *Out of State and Out of Luck: The Treatment of noncustodial Parents Under the Interstate Compact on the Placement of Children*, Yale L. & Pol’y Rev. 25, no. 1 (2006) (“Out of State and Out of Luck”).

jurisdictional issues in foster or adoption contexts, the Third Circuit Court of Appeals addressed expansion to parents in 1991, finding it beyond the ICPC's plain language and original intent.²⁰

A) Expansion by Agencies & the Secretariat

In response to *McComb* and other states' expansive use, AAICPC amended Regulation 3 in 2001 to provide added legitimacy for broadened scope while also addressing growing constitutional concerns over application to fit parents.²¹ Many states adopted implementing regulations patterned after Regulation 3 as they continued applying the ICPC to parents.

B) Maryland's History Mirrors Expansion

Maryland appears to have first amended ICPC regulations in 1990 to include specific language that a "foster child" placement with an out-of-state noncustodial parent, relative or guardian requires ICPC approval.²² The expansion of "foster care" to include placement in a "family home" and the definition of "out-of-home placement" as being inclusive of kinship or residential treatment care, appears to have been first added to the regulations in 1999, which also replaced linkage of out-of-state placements to "foster care" for the new term "out-of-home placement."²³

IV. Courts' Reactions To Parental Application

Judicial reviews to challenges to application to noncustodial parents first appears in the 1990's.²⁴ Most states initially endorsing application did so in the 1990's and early 2000's, although several also refuted it. Although not all states have currently expressed a definitive

20 *McComb v. Wambaugh*, 934 F.2d 474 (3d Cir. 1991).

21 *See H.P. v. Dep't of Children & Families*, 838 So. 2D 583, 585 (Fla. Dist. Ct. App. 2003) (reviewing intent behind and impact of Regulation 3).

22 17:15 Md.R. 1871-1887 (July 27, 1990).

23 26:19 Md.R. 1454-1471 (Sept. 10, 1999).

24 *McComb* at 479 (court has found "[n]o state Supreme Court has analyzed the question in a reasoned opinion, nor has any state intermediate appellate court" on whether the ICPC applies to parents).

position on application to parents, trends are discernible. The majority that have reviewed scope based upon language or legislative history have held it may not be applied to noncustodial parents. That trend is increasing, and since 2010 more have ruled against its application, while others have reversed or refined earlier positions, barring or restricting application. Growing concerns have emerged over the constitutionality and practical effect of applying it where application delays placements and increases harm to children, and alternative processes become more available.

A) Current View Of States & Trends

Of states that have directly addressed application to parents:

- Eleven hold it may not be applied to noncustodial parents (Arkansas; Connecticut, Indiana, Kansas, North Carolina, New Hampshire, Tennessee, Texas), more broadly to placements with close relatives (New Jersey), or intimated opposing application (Colorado & Maine);
- Ten hold it does apply to noncustodial parents (Ohio), but some only where there are other indicia of unfitness (Arizona, New Mexico, Montana) or fitness is initially in doubt (Delaware), not to deny initial placement but only to “offending” parents under reunification or treatment plans (California & Washington & Georgia), allowing out of state placements pending approval if in a child’s best interests (Florida), or denial does not preclude visitation or continued reunification efforts (Massachusetts); and
- One where authorities are split (New York).²⁵

i. Recent States: Doesn’t Apply To Prevent Placements

Although some have recently reiterated earlier holdings, of the states that initially addressed the issue within the past fifteen years, most have held it does not apply. Although Tennessee had previously addressed relative placements, it rejected application to parents under the clear language of Article III and Regulation 3.²⁶

Texas also extensively reviewed history, and in a “case of first impression” held the

²⁵ Surveys of states addressing of the ICPC is included in Amicus’ Appendix.

²⁶ *In re Courtney R.*, No. M2015-01024-COA-R3-JV, 2017 Tenn. App. LEXIS 263 (Ct. App. Tn. 2017).

limitations of scope in Article III made it “inapplicable to an interstate placement of a child with a parent,” and Regulation 3 impermissibly expanded scope beyond foster care or adoption. *In the Interest of C.R.-A.A.*, 521 S.W.3d 893 (Tex. App. 2017). Connecticut, Indiana, Kansas, and New Hampshire, have also recently rejected wholesale application, or to deny initial placements (Washington).

ii. Other States Express Skepticism

Although courts in Maine and Colorado have not explicitly ruled on the issue, both have recently expressed skepticism that the ICPC would apply to noncustodial parents. In Maine, the court deemed a home study inadmissible for rehabilitation, suggesting it could only be introduced in a proceeding where authorized, which didn’t apply to noncustodial parents based upon the plain language of Article III.²⁷ Similarly, Colorado rejected denial of a study as sole grounds to cease reunification with an “offending” parent. The court directly refuted the agency’s position that failure of a study precluded placement, as “[w]ere the Department’s view correct, the State could terminate a parent’s rights without making any reasonable efforts to reunify the family,” placing out-of-state parents “on equal footing with nonparents” violating federal law and parents’ “constitutionally protected interest in [their] parental relationship with the child.”²⁸ Although the court ultimately declined to resolve the overall issue, it suggested conflict between the ICPC and obligations to parents should be resolved in favor of parents.²⁹

iii. States That Apply Are Reigning In Application

Arizona and Montana represent the clearest trend of states earlier upholding blanket

²⁷ *In re Natasha*, 943 A.2d 602 (Me. 2008).

²⁸ *In re JJO*, 2019 COA 151, 10 (Colo. App. 2019).

²⁹ *In re JJO*, at 8 (“We need not resolve that question now. Even if the ICPC applies to placement with a natural parent, it cannot be applied in such a way as to relieve the Department of its obligations to exercise reasonable efforts to reunify the family.”).

application that have revisited the issue responding to problems. Arizona had held that the ICPC must be applied to noncustodial parents, dismissing the analysis of *McComb* and due process concerns, premising its holding on liberal construction and validity of Regulation 3. *Department of Econ. Sec. v. Leonardo*, 200 Ariz. 74 (Ariz. Ct. App. 2001). Arizona has since limited *Leonardo*, holding the ICPC “is not required when the evidence does not support a dependency concerning the out-of-state parent.” *Donald W. v. Dep’t of Child Safety*, 2019 WL 2181154, No. 1 CA-JV 18-0322, at *2 (Ariz. Ct. App. May 21, 2019). The court was confronted with an agency’s effort to terminate a “non-offending” father’s parental rights, where his efforts at obtaining custody were thwarted by the agency through the ICPC and other means for nearly three and a half years. That court was unaware of any authority “permitting [agency] to withhold custody of a child from its parent while [it] investigates the parent without *some* evidence of unfitness.” *Donald W.*, at *14 (emphasis in original). Citing other states’ recent opinions, the court severely restricted *Leonardo*, finding that agencies *could* request courtesy checks through the ICPC or perform other investigation, but *could not require* a full home study in the absence of any other information suggesting unfitness.

Montana’s Supreme Court had earlier endorsed general application in a string of cases between 2008 and 2016 but even more recently was forced to restrict application three times in the past 3 years. In *In re A.J.C.*, 393 Mont. 9 (Mont. 2018), an out-of-state father with little previous interaction attempted to gain custody after an agency had removed the child from the mother’s care. Even after completion of a home study and approval, the agency still denied placement with the father citing a need to further investigate issues uncovered during the home study, but which did not result in its denial. From a review of the facts recounted by the Court,

the father appears to have first requested custody in October, 2014, shortly after the child was removed from the mother's care, and the home study was not completed until the end of July, 2015. Years later, the agency had subsequently abandoned any efforts at reunification with the father, recommended permanent placement with the child's grandmother and to terminate the father's parental rights.

Shortly afterwards, that court addressed a similar situation where a noncustodial father was denied initial placement despite no allegations of abuse or neglect, told he would have to complete a home study which the agency delayed initiating for almost a year. *In re E.Y.R.*, 396 Mont. 515 (Mont. 2019). Even more directly than in *In re A.J.C.*, the court addressed the impact on constitutional rights from forced application of the ICPC. It described a continuum where agencies should only pursue an ICPC process *after* an initial investigation, and then only if that investigation reveals potential imminent safety risks that are *endorsed by a reviewing court*, otherwise immediate placement should occur. *In re E.Y.R.*, at 532 (“[w]hile an ICPC may be indicated if objective, demonstrable circumstances warrant the Department seeking a court order to evaluate the noncustodial parent, *an ICPC is not required merely because a noncustodial parent resides in another state.*”) (emphasis added).

Earlier this year, Montana removed any remaining ambiguity, remonstrating its agency that had required full ICPC approval despite no allegation or suggestion a parent was unfit. *In re B.H.*, 2020 MT 4, 22 (Mont. 2020) (“if a state has legitimate concerns regarding the safety of a child in a parent's custody, it must plead those concerns and *prove them to the court*. Here, the Department did not do so, offering only the vague assertion that there *might be* some concerns about Father, and depending on the ICPC to turn up concerns to retroactively justify the

Department's assertion.") (emphasis added).

B) Maryland Has Not Directly Addressed The Issue

Maryland's courts have reviewed the ICPC in other contexts, but not whether it may be applied to nonresident parents based upon Article III's scope, Regulation 3, or constitutional limitations.³⁰ Prior reviews however consistently reflect reliance on the ICPC's history and original intent, analysis of other states' opinions, and recognition any application should neither supplant Maryland law nor exceed constitutional boundaries.

This Court first addressed the ICPC where a child was sent from Virginia to Maryland without full ICPC approval, and whether that would invalidate subsequent adoption. *In re Adoption No. 10087*, 324 Md. 394 (Md. 1991). This Court relied heavily upon Dr. Bernadette Hartfield and her review of the ICPC and its history, finding its original intent was "to facilitate interstate adoption, thereby increasing the pool of acceptable homes for children in need of placement." *In re Adoption No. 10087*, at 404. Although this Court found the ICPC should have been applied, retroactive compliance was the preferred remedy over invalidating the adoption, as the ICPC did not extend to interfere with Maryland's existing responsibilities to act in a child's best interests once within the state.

Confronted with a similar issue but where a natural parent challenged an adoption that appeared to involve purposeful and repeated violations of the ICPC, this Court again upheld the adoption, relying on the best interests of the child and whether the challenging parent's consent was required under New York law, also looking both to Dr. Hartfield and how other states had addressed penalties for noncompliance. *In re Adoption/Guardianship No. 3598*, 347 Md. 295

³⁰ Application of the ICPC has also arisen in unpublished cases. Not offered for precedential value, they represent recurrence of issues implicated by the ICPC's application to parents.

(Md. 1997).

The ICPC was also implicated where COSA addressed a trial court's award of custody to a father and dismissal of a CINA petition brought upon allegations against the mother. *In re Sophie S*, 167 Md. App. 91 (Md. Ct. Spec. App. 2006). The lower court was presented with a quandary by the parties' positions: the agency maintained if the court were to make a finding against the mother and commit the child, the agency would have to await final ICPC approval before placement with the father; but the agency did not object to dismissal of the entire action and immediate award of custody to the father following only a "courtesy check" with no other evidence suggesting his unfitness. The COSA reversed only because the lower court had not yet sustained any finding against the mother under *In re Russell G.* and amendments to the CINA provisions.

Reviewing termination of a father's parental rights, this Court also addressed the ICPC in a limited context. Although the father's primary challenge was the agency had not undertaken reasonable reunification efforts, the father raised in a footnote the agency shouldn't have required him to obtain ICPC approval for visitation at his residence in Pennsylvania. Responding in its own footnote, this Court noted that exceptions contained within Article VIII (§5-609) do not apply where a state has taken custody and would be placing the child. *In re Adoption of Cadence B.*, 417 Md. 146, 158, fn. 11 (Md. 2010).

The COSA also reviewed application to juvenile placements, and despite finding the issue moot as the placement ended, addressed the matter as one of great public importance to provide guidance to lower courts. The court construed the plain language of § 5-607, but did so *strictly* because of its reflection of due process requirements. *In re W.Y.*, 228 Md.App. 596 (Md. App.

2016).

V. Application to Parents Violates Constitutional Protections

“[P]erhaps the oldest fundamental liberty interest recognized by the [Supreme] Court” is a parent’s “right to direct the upbringing of their children.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Whether granting third parties visitation rights, temporarily removing children in need, or severing parental bonds, states must comport with constitutional guidelines that respect the importance of parents’ fundamental rights. As parental rights are fundamental, application of the ICPC to them is presumptively unconstitutional and may be upheld only if the State may demonstrate its necessary to promote a compelling government interest.³¹ Application here and in the manner advocated by DSS both implicate “as applied” constitutional concerns.³² Application to parents also disproportionately influences whether “exceptional circumstances” exist – used by courts in multiple contexts including TPR, reunification following removal, or alternative placements.³³

A) Maintaining Presumptions Are Incompatible with the ICPC

Once the ICPC is invoked, its terms are mandatory and facially provide no discretion to an agency or court. If Article III’s scope is interpreted to extend to parents, it precludes Maryland from placing a child until and unless a receiving state replies “the proposed placement

31 *Attorney Gen. of Md. v. Waldron*, 289 Md. 683, 705-706 (1981) (“when a statute creates a distinction based upon clearly ‘suspect’ criteria, or when [it] infringes upon personal rights or interests deemed to be ‘fundamental,’” that statute is subject to strict scrutiny. A statute that triggers strict scrutiny is presumptively unconstitutional and survives only if the government can demonstrate that the challenged statute is “necessary to promote a compelling government interest.”).

32 Although normally limited to particular facts, *Motor Vehicle Admin. v. Seenath*, 448 Md. 145, 181 (2016) (“claim[s] that a statute is unconstitutional on the facts of a particular case or in its application to a particular party”), virtually all proposed applications to parents would engender similar violations.

33 Analysis of exceptional circumstances include considering a child’s emotional ties and aspects of placements, which subsumes consideration of the time a child has spent apart from a parent, and developing bonds in other placements. Although this Court has cautioned against reliance upon that factor as dispositive, it has noted judges’ difficulties in not according it excessive weight. *In re H.W.*, 460 Md. 201 (Md. App. 2018).

does not appear to be contrary to the interests of the child.” § 5-604(d). To even delay placement where an agency has no evidence suggesting unfitness eviscerates holdings of this Court, underlying statutes, and constitutional presumptions, which mandate immediate placement if a nonoffending parent had no knowledge of the other’s abuse, and otherwise appears willing and able to care for a child.

Nor can recourse to ICPC’s regulations provide an answer. DSS states it has and will use discretion under regulations to dispense with a home study and immediately place with a noncustodial parent if “fitness is not in question.” Yet DSS also argues the ICPC “provides juvenile courts and local departments with a critical and necessary tool” to be applied to parents “whose fitness is unknown”; it has an affirmative duty to conduct a “thorough evaluation” before placement; courts need to obtain “vital information” to ensure children’s safety; and recounts its inabilities to obtain such information without a full home study. While DSS may assert it would not seek a full home study for a hypothetical parent whose fitness is not in question, it remains difficult to imagine it ever would.

B) Parental Application Violates Due Process & Equal Protection

Application to parents raises pervasive due process concerns inherent throughout the ICPC’s design and operation. Home study results and recommendations of a social worker in a receiving state become dispositive, forcing abdication of judicial determination on fitness or the best interests of the child. Placement decisions are made subjectively without uniform standards governing home studies,³⁴ under states’ procedures which vary widely, frequently containing no guidance to parental placements and default to foster home certification standards.³⁵ Reflecting

³⁴ See *Donald W.*, at *15 (recounting use of subjective criteria in ICPC evaluations); *In re D.F.-M.*, 157 Wash. App. at 193, 236 P.3d at 967 (Wa. Ct. App. 2010) (describing receiving state’s determination that fit father lacked adequate bedroom space for his child as “nonsense”).

³⁵ See, e.g., Vivek Sankaran, *Foster Kids in Limbo: The Effects of the Interstate Compact on Children in Foster*

that disparity, home studies of natural parents are denied at much higher rates.³⁶ Nor does the ICPC or most states' internal regulations contain any procedure for appealing other states' denials. *See, e.g., In re T.M.J.*, 878 A.2d 1200, 1203 (D.C. 2005) (rejecting attempt to have court review denial of placement from out-of-state agency).³⁷ Excessive delays and interruptions with parent-child relationships alone violate due process rights,³⁸ and may unduly influence future considerations of whether "exceptional circumstances" exist sufficient to recommend alternative placements in large part because children have had months or years to bond with foster or adoptive families after prolonged separation from their parents. Nor are there any mandates requiring placements with parents or prompt agency action even where home studies are approved, although there are for pre-adoptive parents.³⁹ Nor may application of this litany of problems to nonresident parents be done without disparate treatment of either foster or pre-adoptive nonresidents, or resident parents under the Equal Protection Clause.

Care, June, 2014 Child Law Practice Today, American Bar Association, available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-33/june-2014/foster-kids-in-limbo--the-effects-of-the-interstate-compact-on-c/ (agencies deny roughly 40% of all placement requests, studies denied for arbitrary reasons, few states have guidelines for parents apart from foster home certifications, and noting reasons cited to deny parents include "insufficient living space"; "unstable housing"; "parent would have to sleep on the couch to accommodate children"; "the client does not meet qualification due to shared housing"; "financially fragile").

- 36 Vivek Sankaran, *The Impact of the Interstate Compact on the Placement of Children in Foster Care*, A Report to the Annie E. Casey Foundation, available at <https://www.law.umich.edu/clinical/calcp/practitionerresources/Documents/ICPC%20on%20Children%20in%20Foster%20Care.pdf> (recounting results from study of data obtained from state ICPC offices for 2006-2011, and noting significantly higher denial rates for parents) ("Casey Report").
- 37 Ironically, Maryland affords foster care and adoptive parents rights to administratively challenge denials of approval from home studies, but does not extend the same rights to relatives or natural parents. *See* COMAR 07.06.25.06(F) (imposing timelines for processing of home studies under the ICPC, but additionally requiring notification to a "prospective resource parent" of approval or denials, according them administrative rights to appeal). COMAR 07.02.25.02(B)(32) (defining "resource parent" as only those "dually approved as a foster and adoptive parent").
- 38 *See Weller v. Dep't of Social Services*, 901 F.2d 387, 396 (4th Cir. 1990) (four month delay in adjudicating a father's deprivation of custody rights clearly violates the prompt due process the Constitution requires).
- 39 *See* Casey Report, p. 8 (noting a third of ICPC requests took over 90 days to process). States are subjected to challenge where they fail to place with pre-adoptive parents with "reasonable promptness" following approval of home studies. 42 U.S.C.A. § 671(a)(23); Maryland Child Welfare Benchbook, Administrative Office of the Courts (2009), CL-104 ("DSS cannot deny or delay placing a child in an approved out-of-state adoptive home.").

VI. Parental Application is Counterproductive & Unnecessary

A) Children Suffer From Prolonged Separation & Foster Care

Applying the ICPC to parents means agencies will not place children into their care until after successful completion of a home study – which even with expedited processing takes months to occur.⁴⁰ Nor do temporary periods of visitation with parents, where explored, necessarily remove trauma. Separating especially younger children from family can lead to lifelong trauma. “[F]requent, meaningful parent-child visits are critical for infants and toddlers in foster care.”⁴¹ For children birth to three, best practice guides prescribe daily visitation or at the least every two to three days.⁴² Academics have consistently reached the same conclusions about harmful effects of family separations.⁴³ Although children who experience longer periods of separation are at greater risk, even relatively brief separations can traumatize children.⁴⁴ Resulting feelings of uncertainty and dislocation manifest themselves in depression, acting out, withdrawal, and poor academic performance.⁴⁵ As the American Psychological Association has pointed out, “[d]ecades of psychological research have determined that it is in the best interest of the child and the family to keep families together.”⁴⁶

Extensive research establishes *any* placement in foster care exacerbates parental

40 Numerous courts have lamented at the extreme processing time of several cases, including *In re B.H.* (process had to be re-started after processing time of 19 months); *In re E.Y.R.* (agency delayed making initial request for 8 months); *In re A.J.C.* (agency didn’t place child with father even after completion of ICPC home study and approval of placement by receiving state “asserting it wanted additional time to obtain more information”).

41 Lucy Hudson, Eva Klain, Margaret Smariga, Victoria Youcha, *Healing the Youngest Children: Model Court-Community Partnerships*, American Bar Association (2007), <https://perma.cc/5EJE-JJX3>.

42 Child and Family Visitation Best Practice Guide (Tex. DPFS 2015), <https://perma.cc/Q79J-X87J>.

43 John Harlow, *Pediatricians Know Why Family Separation is Child Abuse*, CNN, July 10, 2018 (citing studies dating to the turn of the last century), available at <https://www.cnn.com/2018/07/10/opinions/family-separation-child-abuse-harlow/index.html>.

44 Joseph Goldstein, et al., *The Best Interests of the Child: The Least Detrimental Alternative*, at 41-45 (1996 ed.).

45 Vivek S. Sankaran, *Perpetuating the Impermanence*, 40 FAM L.Q. at 436 (citing *Fostering the Future: Safety, Permanency and Well-Being for Children in Foster Care*, Pew Commission (2004)).

46 Available at <http://www.apa.org/advocacy/immigration/separating-families-letter.pdf>; Leonard Edwards, *Reasonable Efforts: A Judicial Perspective*, (2014) (describing the efforts of courts and legislators to help keep families together).

separation and can impose lasting harm. Many studies have noted the correlation between placement in foster care and later criminal activities, substance abuse, teen pregnancies, employment success, or other delinquency issues.⁴⁷ Although not all experiences are the same, high correlations exist showing a majority moved to new neighborhoods (72%), new schools (68%), and were separated from at least one sibling.⁴⁸ Although a necessary evil in some circumstances, foster care should only be pursued where no other options exist and every effort should be undertaken to minimize time spent in such care. In no event though should a child be subjected to foster care where there is a fit parent available and willing to care for that child.

B) States Have Alternatives to Full Home Studies

As admitted by DSS, it has many tools to perform initial investigations of resident parents, including criminal records or records of prior abuse or neglect, before appearance at an initial adjudicatory or shelter care hearing. Yet the same information is often available for nonresident parents. State agencies routinely collaborate with and rely upon the services of other agencies or private organizations operating in other states through the UCCJEA or cross-border agreements. The ICPC itself recognizes agencies are empowered to “enter into an agreement with an authorized public or private agency” in another state to perform services. Md. Fam. Law §§ 5-606(b); 5-601(5).⁴⁹ Other states routinely resort to these and other authorities to provide

47 Joseph J. Doyle, Jr., *Child Protection and Child Outcomes: Measuring the Effects of Foster Care*, 97 *Amer. Econ. Rev.* 1583 (2007); Joseph J. Doyle, Jr., *Child Protection and Adult Crime: Using Investigator Assignment to Estimate Causal Effects of Foster Care*, 116 *J. Polit. Econ.* 746 (2008).

48 Fawley-King, K., Trask, E.V., Zhang, J., & Aarons, G.A., *The Impact of Changing Neighborhoods, Switching Schools, and Experiencing Relationship Disruption on Children’s Adjustment to a New Placement in Foster Care*, 63 *Child Abuse & Neglect* 141, 146 (2016), available at <http://europepmc.org/abstract/MED/27919001>.

49 Maryland and the District of Columbia have previously entered into a Memorandum of Understanding (“DC MOU”) allowing for placements into foster care “on an emergency basis” prior to receiving ICPC approval. Policy on Interstate Compact on the Placement of Children, Child and Family Services Agency, District of Columbia, available at https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/Program%20-%20Interstate%20Compact%20on%20the%20Placement%20of%20Children%20%28ICPC%29%20%28final%29%28H%29_2.pdf.

services and inspections following placements in other states.⁵⁰

Finally, DSS discounts that ICPC courtesy checks provide a viable means to obtain initial information about a nonresident as “there is no mechanism to guarantee that another entity will agree or do so in a timely or thorough manner.” Ironically, the same concerns exist for full home studies. If anything, the applicable regulation maintains “responsibility for credentials and quality” remain with the state that requests **and** the entity in the receiving state that responds. Some states have even enshrined pursuit of a “courtesy check” as one component of initial investigations that may be done without resort to a full home study.⁵¹

CONCLUSION

Applying the Compact to placements with parents violates the plain language of the statute, the constitutional rights of parents and children, the “best interests of the child” principle, and core precepts of administrative law. It has no legal basis and threatens to harm children. Amicus urges the Court to rule that the Compact does not apply to placements with parents.

⁵⁰ See, e.g., *In re M.W.*, 237 Cal. Rptr. 3d 540, 546-47 (Cal. Ct. App. 2018) (refuting agency argument it could not operate in Nevada to assess, approve, or supervise placement done outside of the ICPC by noting it could provide services through private agencies).

⁵¹ See Rule 5.616(g), 2020 California Rules of the Court (compliance with ICPC not required for parental placements, but listing courtesy checks and other available tools).

CERTIFICATE OF WORD COUNT AND COMPLIANCE

1. This brief contains 6,499 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.



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Appendix

1. Maryland Legislative History Excerpts
2. ICPC Application To Parents: State Survey

SB 14
 1/9/75
 LR253
 LC8-3

CHILD CARE
 Enact the Interstate Compact on the Placement of Children.

Art. - COURT'S, new §3-1001 thru
 PRESIDENT

CHAPTER
 266

| SENATE | | | HOUSE | | |
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| 1. READING | 2. READING | 3. READING | 1. READING | 2. READING | 3. READING |
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SR 18

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JUDICIAL PROCEEDINGS

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CURRAN, Chairman.....

SB 18
 1/9/75
 LR253
 LC8-3

CHILD CARE
 Enact the Interstate Compact on
 the Placement of Children.
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CHAPTER
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SB 18

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S.B. 18 AM

H.B. _____

JUDICIAL PROCEEDINGS

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| CURRAN, Chairman..... | ✓ | |
| STEINBERG, Vice Chairman..... | ✓ | |
| BISHOP..... | ✓ | |
| CONNELL..... | ✓ | |
| CORDERMAN..... | ✓ | |
| MILLER..... | | |
| MITCHELL..... | | |
| SCHWEINHAUT..... | ✓ | |
| TOTAL..... | 6 | 0 |

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8/18

27 States
26 have adopted

This Compact

Virginia & Utah
have been most
recent

Dist of Columbia
is considering it.
(Director of D.C. Dept of
Human Resources has
requested this be enacted
in that jurisdiction.
W.Va. also has adopted this
Bill



HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21404

From the Desk of
JOSEPH E. OWENS
CHAIRMAN, JUDICIARY COMMITTEE

Mitchell
Wendell

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534-9090

American Public
Welfare Association

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Date SB 18 Time _____

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SENATE OF MARYLAND

No. 19

By: The President (Legislative Council)
 Introduced and read first time: January 9, 1975
 Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
 Senate Action: Adopted
 Read second time: February 6, 1975

CHAPTER _____

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| AN ACT concerning | 40 |
| Interstate Compact on the Placement of Children | 43 |
| FOR the purpose of enacting the Interstate Compact on the | 47 |
| Placement of Children and relating generally to the | 48 |
| Interstate Compact on the Placement of Children. | 49 |
| [[BY adding to | 51 |
| Article - Courts and Judicial Proceedings | 54 |
| Section 3-1001 through 3-1011, inclusive, to be | 56 |
| under the new subtitle "Interstate Compact on the | 58 |
| Placement of Children" | |
| Annotated Code of Maryland | 60 |
| (1974 Volume and 1974 Supplement) | 61 |
| SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF | 64 |
| MARYLAND, That new Sections 3-1001 through 3-1011, | 65 |
| inclusive, to be under the new subtitle "Interstate | 66 |
| Compact on the Placement of Children" be and they are | 67 |
| hereby added to Article - Courts and Judicial | 69 |
| Proceedings, of the Annotated Code of Maryland (1974 | 70 |
| Volume and 1974 Supplement) to read as follows: | 71 |
| Article - Courts and Judicial Proceedings]] | 74 |
| BY adding to | 77 |
| Article 16 - Chancery | 80 |
| Sections 194 through 194, inclusive, to be under the | 82 |
| new subtitle "Interstate Compact on the | 81 |

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to the bill.
 [[Double brackets]] enclose matter stricken out of bill.
 Numerals at right identify computer lines of text.

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| <u>Placement of Children"</u> | 83 |
| <u>Annotated Code of Maryland</u> | 85 |
| <u>(1973 Replacement Volume and 1974 Supplement)</u> | 86 |

| | |
|---|----|
| <u>SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF</u> | 89 |
| <u>MARYLAND, That new Sections 180 through 194, inclusive,</u> | 90 |
| <u>to be under new subtitle "Interstate Compact on the</u> | 91 |
| <u>Placement of Children" be and they are hereby added to</u> | 92 |
| <u>Article 16 - Chancery, of the Annotated Code of Maryland</u> | 93 |
| <u>(1973 Replacement Volume and 1974 Supplement) to read as</u> | 96 |
| <u>follows:</u> | |

Article 16 - Chancery 99

| | |
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| <u>INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN</u> | 101 |
| <u>[[3-1001]] 184.</u> | 104 |

THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN IS HEREBY ENTERED INTO BY THIS STATE WITH ALL STATES LEGALLY JOINING IN THE COMPACT IN THE FORM SUBSTANTIALLY AS FOLLOWS:

(A) FINANCIAL RESPONSIBILITY FOR ANY CHILD PLACED PURSUANT TO THE PROVISIONS OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN SHALL BE DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF SECTION [[3-1006]] 189. HOWEVER, IN THE EVENT OF PARTIAL OR COMPLETE DEFAULT OF PERFORMANCE THEREUNDER, THE PROVISIONS OF STATE LAWS FIXING RESPONSIBILITY FOR THE SUPPORT OF CHILDREN ALSO MAY BE INVOKED. 111-117

(B) THE "APPROPRIATE PUBLIC AUTHORITIES" AS USED IN SECTION [[3-1004]] 187 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN SHALL, WITH REFERENCE TO THIS STATE, MEAN THE DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES. THIS DEPARTMENT SHALL RECEIVE AND ACT WITH REFERENCE TO NOTICES RECEIVED BY ARTICLE III. 119-124

(C) AS USED IN SUBSECTION (A) OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, THE PHRASE "APPROPRIATE AUTHORITY IN THE RECEIVING STATE" WITH REFERENCE TO THIS STATE SHALL MEAN THE DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES. 126-129

(D) THE OFFICERS AND AGENCIES OF THIS STATE AND ITS SUBDIVISIONS HAVING AUTHORITY TO PLACE CHILDREN ARE HEREBY EMPOWERED TO ENTER INTO AGREEMENTS WITH APPROPRIATE OFFICERS OR AGENCIES OF OR IN OTHER PARTY STATES PURSUANT TO SUBSECTION (B) OF SECTION [[3-1006]] 189 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN. ANY SUCH AGREEMENT WHICH CONTAINS A FINANCIAL COMMITMENT OR IMPOSES A FINANCIAL OBLIGATION ON THIS 131-137

STATE OR SUBDIVISION OR AGENCY THEREOF SHALL NOT BE BINDING UNLESS IT HAS THE APPROVAL IN WRITING OF THE DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES.

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(E) ANY REQUIREMENTS FOR VISITATION, INSPECTION OR SUPERVISION OF CHILDREN, HOMES, INSTITUTIONS OR OTHER AGENCIES IN ANOTHER PARTY STATE WHICH MAY APPLY SHALL BE DEEMED TO BE MET IF PERFORMED PURSUANT TO AN AGREEMENT ENTERED INTO BY APPROPRIATE OFFICERS OR AGENCIES OF THIS STATE OR A SUBDIVISION THEREOF AS CONTEMPLATED BY SUBSECTION [(E) OF SECTION 3-1006] (B) OF SECTION 189 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

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(F) ANY PROVISIONS OF LAW RESTRICTING OUT-OF-STATE PLACEMENT SHALL NOT APPLY TO PLACEMENTS MADE PURSUANT TO THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

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(G) ANY COURT HAVING JURISDICTION TO PLACE DELINQUENT CHILDREN MAY PLACE SUCH A CHILD IN AN INSTITUTION OF OR IN ANOTHER STATE PURSUANT TO SECTION [(3-1007)] 190 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN AND SHALL RETAIN JURISDICTION AS PROVIDED IN SECTION [(3-1006)] 189 THEREOF.

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(H) AS USED IN SECTION [(3-1008)] 191 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, THE TERM "EXECUTIVE HEAD" MEANS THE GOVERNOR. THE GOVERNOR IS HEREBY AUTHORIZED TO APPOINT A COMPACT ADMINISTRATOR IN ACCORDANCE WITH THE TERMS OF SECTION [(3-1008)] 191.

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[(3-1002)] 185.

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IT IS THE PURPOSE AND POLICY OF THE SEVERAL STATES TO COOPERATE WITH EACH OTHER IN THE INTERSTATE PLACEMENT OF CHILDREN TO THE END THAT:

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(A) EACH CHILD REQUIRING PLACEMENT SHALL RECEIVE THE MAXIMUM OPPORTUNITY TO BE PLACED IN A SUITABLE ENVIRONMENT AND WITH PERSONS OR INSTITUTIONS HAVING APPROPRIATE QUALIFICATIONS AND FACILITIES TO PROVIDE A NECESSARY AND DESIRABLE DEGREE AND TYPE OF CARE.

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(B) THE APPROPRIATE AUTHORITIES IN A STATE WHERE A CHILD IS TO BE PLACED MAY HAVE FULL OPPORTUNITY TO ASCERTAIN THE CIRCUMSTANCES OF THE PROPOSED PLACEMENT, THEREBY PROMOTING FULL COMPLIANCE WITH APPLICABLE REQUIREMENTS FOR THE PROTECTION OF THE CHILD.

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(C) THE PROPER AUTHORITIES OF THE STATE FROM WHICH THE PLACEMENT IS MADE MAY OBTAIN THE MOST COMPLETE INFORMATION ON THE BASIS OF WHICH TO EVALUATE A PROPOSED PLACEMENT BEFORE IT IS MADE.

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(D) APPROPRIATE JURISDICTIONAL ARRANGEMENTS FOR THE CARE OF CHILDREN WILL BE PROMOTED.

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[[3-1003]] 186. 183

(A) AS USED IN THIS COMPACT: 186

(B) "CHILD" MEANS A PERSON WHO, BY REASON OF MINORITY, IS LEGALLY SUBJECT TO PARENTAL, GUARDIANSHIP OR SIMILAR CONTROL. 188 189

(C) "SENDING AGENCY" MEANS A PARTY STATE, OFFICER OR EMPLOYEE THEREOF; A SUBDIVISION OF A PARTY STATE, OR OFFICER OR EMPLOYEE THEREOF; A COURT OF A PARTY STATE; A PERSON, CORPORATION, ASSOCIATION, CHARITABLE AGENCY OR OTHER ENTITY WHICH SENDS, BRINGS, OR CAUSES TO BE SENT OR BROUGHT ANY CHILD TO ANOTHER PARTY STATE. 191 192 193 194 195

(D) "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT, WHETHER BY PUBLIC AUTHORITIES OR PRIVATE PERSONS OR AGENCIES, AND WHETHER FOR PLACEMENT WITH STATE OR LOCAL PUBLIC AUTHORITIES OR FOR PLACEMENT WITH PRIVATE AGENCIES OR PERSONS. 197 198 199 200

(E) "PLACEMENT" MEANS THE ARRANGEMENT FOR THE CARE OF A CHILD IN A FAMILY HOME OR BOARDING HOME OR IN A CHILD-CARING AGENCY OR INSTITUTION BUT DOES NOT INCLUDE ANY INSTITUTION CARING FOR THE MENTALLY ILL, MENTALLY DEFECTIVE OR EPILEPTIC OR ANY INSTITUTION PRIMARILY EDUCATIONAL IN CHARACTER, AND ANY HOSPITAL OR OTHER MEDICAL FACILITY. 202 203 204 205 206

[[3-1004]] 187. 208

(A) NO SENDING AGENCY SHALL SEND, BRING, OR CAUSE TO BE SENT OR BROUGHT INTO ANY OTHER PARTY STATE ANY CHILD FOR PLACEMENT IN FOSTER CARE OR AS A PRELIMINARY TO A POSSIBLE ADOPTION UNLESS THE SENDING AGENCY SHALL COMPLY WITH EACH AND EVERY REQUIREMENT SET FORTH IN THIS ARTICLE AND WITH THE APPLICABLE LAWS OF THE RECEIVING STATE GOVERNING THE PLACEMENT OF CHILDREN THEREIN. 211 212 213 214 215

(B) PRIOR TO SENDING, BRINGING OR CAUSING ANY CHILD TO BE SENT OR BROUGHT INTO A RECEIVING STATE FOR PLACEMENT IN FOSTER CARE OR AS A PRELIMINARY TO A POSSIBLE ADOPTION, THE SENDING AGENCY SHALL FURNISH THE APPROPRIATE PUBLIC AUTHORITIES IN THE RECEIVING STATE WRITTEN NOTICE OF THE INTENTION TO SEND, BRING, OR PLACE THE CHILD IN THE RECEIVING STATE. THE NOTICE SHALL CONTAIN: 217 218 219 220 221

(1) THE NAME, DATE AND PLACE OF BIRTH OF THE CHILD. 224

(2) THE IDENTITY AND ADDRESS OR ADDRESSES OF THE PARENTS OR LEGAL GUARDIAN. 225 226

(3) THE NAME AND ADDRESS OF THE PERSON, AGENCY OR INSTITUTION TO OR WITH WHICH THE SENDING AGENCY PROPOSES TO SEND, BRING, OR PLACE THE CHILD. 228
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(4) A FULL STATEMENT OF THE REASONS FOR SUCH PROPOSED ACTION AND EVIDENCE OF THE AUTHORITY PURSUANT TO WHICH THE PLACEMENT IS PROPOSED TO BE MADE. 231
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(C) ANY PUBLIC OFFICER OR AGENCY IN A RECEIVING STATE WHICH IS IN RECEIPT OF A NOTICE PURSUANT TO PARAGRAPH (B) OF THIS ARTICLE MAY REQUEST OF THE SENDING AGENCY, OR ANY OTHER APPROPRIATE OFFICER OR AGENCY OF OR IN THE SENDING AGENCY'S STATE, AND SHALL BE ENTITLED TO RECEIVE THEREFROM SUCH SUPPORTING OR ADDITIONAL INFORMATION AS IT MAY DEEM NECESSARY UNDER THE CIRCUMSTANCES TO CARRY OUT THE PURPOSE AND POLICY OF THIS COMPACT. 234
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(D) THE CHILD SHALL NOT BE SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT INTO THE RECEIVING STATE UNTIL THE APPROPRIATE PUBLIC AUTHORITIES IN THE RECEIVING STATE SHALL NOTIFY THE SENDING AGENCY, IN WRITING, TO THE EFFECT THAT THE PROPOSED PLACEMENT DOES NOT APPEAR TO BE CONTRARY TO THE INTERESTS OF THE CHILD. 241
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[[3-1005]] 188.

THE SENDING, BRINGING, OR CAUSING TO BE SENT OR BROUGHT INTO ANY RECEIVING STATE OF A CHILD IN VIOLATION OF THE TERMS OF THIS COMPACT SHALL CONSTITUTE A VIOLATION OF THE LAWS RESPECTING THE PLACEMENT OF CHILDREN OF BOTH THE STATE IN WHICH THE SENDING AGENCY IS LOCATED OR FROM WHICH IT SENDS OR BRINGS THE CHILD AND OF THE RECEIVING STATE. SUCH VIOLATION MAY BE PUNISHED OR SUBJECTED TO PENALTY IN EITHER JURISDICTION IN ACCORDANCE WITH ITS LAWS. IN ADDITION TO LIABILITY FOR ANY SUCH PUNISHMENT OR PENALTY, ANY SUCH VIOLATION SHALL CONSTITUTE FULL AND SUFFICIENT GROUNDS FOR THE SUSPENSION OR REVOCATION OF ANY LICENSE, PERMIT, OR OTHER LEGAL AUTHORIZATION HELD BY THE SENDING AGENCY WHICH EMPOWERS OR ALLOWS IT TO PLACE, OR CARE FOR CHILDREN. 248
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[[3-1006]] 189.

(A) THE SENDING AGENCY SHALL RETAIN JURISDICTION OVER THE CHILD SUFFICIENT TO DETERMINE ALL MATTERS IN RELATION TO THE CUSTODY, SUPERVISION, CARE, TREATMENT AND DISPOSITION OF THE CHILD WHICH IT WOULD HAVE HAD IF THE CHILD HAD REMAINED IN THE SENDING AGENCY'S STATE, UNTIL THE CHILD IS ADOPTED, REACHES MAJORITY, BECOMES SELF-SUPPORTING OR IS DISCHARGED WITH THE CONCURRENCE OF THE APPROPRIATE AUTHORITY IN THE RECEIVING STATE. SUCH JURISDICTION SHALL ALSO INCLUDE THE POWER TO EFFECT OR CAUSE THE RETURN OF THE CHILD OR ITS TRANSFER TO ANOTHER LOCATION AND CUSTODY PURSUANT TO LAW. THE SENDING AGENCY 261
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SHALL CONTINUE TO HAVE FINANCIAL RESPONSIBILITY FOR SUPPORT AND MAINTENANCE OF THE CHILD DURING THE PERIOD OF THE PLACEMENT. NOTHING CONTAINED HEREIN SHALL DEFEAT A CLAIM OF JURISDICTION BY A RECEIVING STATE SUFFICIENT TO DEAL WITH AN ACT OF DELINQUENCY OR CRIME COMMITTED THEREIN.

(B) WHEN THE SENDING AGENCY IS A PUBLIC AGENCY, IT MAY ENTER INTO AN AGREEMENT WITH AN AUTHORIZED PUBLIC OR PRIVATE AGENCY IN THE RECEIVING STATE PROVIDING FOR THE PERFORMANCE OF ONE OR MORE SERVICES IN RESPECT OF SUCH CASE BY THE LATTER AS AGENT FOR THE SENDING AGENCY.

(C) NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PREVENT A PRIVATE CHARITABLE AGENCY AUTHORIZED TO PLACE CHILDREN IN THE RECEIVING STATE FROM PERFORMING SERVICES OR ACTING AS AGENT IN THAT STATE FOR A PRIVATE CHARITABLE AGENCY OF THE SENDING STATE; NOR TO PREVENT THE AGENCY IN THE RECEIVING STATE FROM DISCHARGING FINANCIAL RESPONSIBILITY FOR THE SUPPORT AND MAINTENANCE OF A CHILD WHO HAS BEEN PLACED ON BEHALF OF THE SENDING AGENCY WITHOUT RELIEVING THE RESPONSIBILITY SET FORTH IN PARAGRAPH (A) HEREOF.

[[3-1007]] 190.

A CHILD ADJUDICATED DELINQUENT MAY BE PLACED IN AN INSTITUTION IN ANOTHER PARTY JURISDICTION PURSUANT TO THIS COMPACT BUT NO SUCH PLACEMENT SHALL BE MADE UNLESS THE CHILD IS GIVEN A COURT HEARING ON NOTICE TO THE PARENT OR GUARDIAN WITH OPPORTUNITY TO BE HEARD, PRIOR TO HIS BEING SENT TO SUCH OTHER PARTY JURISDICTION FOR INSTITUTIONAL CARE AND THE COURT FINDS THAT:

1. EQUIVALENT FACILITIES FOR THE CHILD ARE NOT AVAILABLE IN THE SENDING AGENCY'S JURISDICTION; AND

2. INSTITUTIONAL CARE IN THE OTHER JURISDICTION IS IN THE BEST INTEREST OF THE CHILD AND WILL NOT PRODUCE UNDOE HARDSHIP.

[[3-1008]] 191.

THE EXECUTIVE HEAD OF EACH JURISDICTION PARTY TO THIS COMPACT SHALL DESIGNATE AN OFFICER WHO SHALL BE GENERAL COORDINATOR OF ACTIVITIES UNDER THIS COMPACT IN HIS JURISDICTION AND WHO, ACTING JOINTLY WITH LIKE OFFICERS OF OTHER PARTY JURISDICTIONS, SHALL HAVE POWER TO PROMULGATE RULES AND REGULATIONS TO CARRY OUT MORE EFFECTIVELY THE TERMS AND PROVISIONS OF THIS COMPACT.

[[3-1009]] 192.

THIS COMPACT SHALL NOT APPLY TO:

(A) THE SENDING OR BRINGING OF A CHILD INTO A RECEIVING STATE BY HIS PARENT, STEP-PARENT, GRANDPARENT, ADULT BROTHER OR SISTER, ADULT UNCLE OR AUNT, OR HIS GUARDIAN AND LEAVING THE CHILD WITH ANY SUCH RELATIVE OR NON-AGENCY GUARDIAN IN THE RECEIVING STATE. 310
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(B) ANY PLACEMENT, SENDING OR BRINGING OF A CHILD INTO A RECEIVING STATE PURSUANT TO ANY OTHER INTERSTATE COMPACT TO WHICH BOTH THE STATE FROM WHICH THE CHILD IS SENT OR BROUGHT AND THE RECEIVING STATE ARE PARTY, OR TO ANY OTHER AGREEMENT BETWEEN SAID STATES WHICH HAS THE FORCE OF LAW. 323
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[[3-1010]] 193.

THIS COMPACT SHALL BE OPEN TO JOINDER BY ANY STATE, TERRITORY OR POSSESSION OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, AND WITH THE CONSENT OF CONGRESS, THE GOVERNMENT OF CANADA OR ANY PROVINCE THEREOF. IT SHALL BECOME EFFECTIVE WITH RESPECT TO ANY SUCH JURISDICTION WHEN SUCH JURISDICTION HAS ENACTED THE SAME INTO LAW. WITHDRAWAL FROM THIS COMPACT SHALL BE BY THE ENACTMENT OF A STATUTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL TWO YEARS AFTER THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE GOVERNOR OF EACH OTHER PARTY JURISDICTION. WITHDRAWAL OF A PARTY STATE SHALL NOT AFFECT THE RIGHTS, DUTIES AND OBLIGATIONS UNDER THIS COMPACT OF ANY SENDING AGENCY THEREIN WITH RESPECT TO A PLACEMENT MADE PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL. 329
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[[3-1011]] 194.

THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE THE PURPOSES THEREOF. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY PARTY STATE OR OF THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY STATE PARTY THERETO, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING STATES AND IN FULL FORCE AND EFFECT AS TO THE STATE AFFECTED AS TO ALL SEVERABLE MATTERS. 343
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SECTION 2. AND BE IT FURTHER ENACTED, THAT THIS Act shall take effect July 1, 1975. 361
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Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.

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By the Senate Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 18

Amendment #1

In lines 45 through 68, inclusive, on page 1 of the printed bill strike beginning with the word "BY" in line 45 down to and including the word "Proceedings" in line 68 and insert in lieu thereof the following:

"BY adding to

Article 16 - Chancery
Sections 184 through 194, inclusive, to be under the
new subtitle "Interstate Compact on the Placement of
Children"
Annotated Code of Maryland
(1973 Replacement Volume and 1974 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That new Sections 184 through 194 inclusive, to
be under new subtitle "Interstate Compact on the Placement
of Children" be and they are hereby added to Article 16 -
Chancery of the Annotated Code of Maryland (1973 Replacement
Volume and 1974 Supplement) to read as follows:

Article 16 - Chancery".

Amendment # 2

In line 73 on page 1 of the printed bill, strike "3-1001" and insert in lieu thereof "184".

Amendment #3

In line 82 of page 2 of the printed bill, strike "3-1006" and insert in lieu thereof "189".

Amendment #4

In line 87 on page 2 of the printed bill, strike "3-1004" and insert in lieu thereof "187".

Amendment #5

In line 98 on page 2 of the printed bill, strike "3-1006" and insert in lieu thereof "189".

Amendment #14

In line 208 on page 4 of the printed bill, strike "3-1005" and insert in lieu thereof "188".

Amendment #15

In line 220 on page 5 of the printed bill, strike "3-1006" and insert in lieu thereof "189".

Amendment #16

In line 246 on page 5 of the printed bill, strike "3-1007" and insert in lieu thereof "190".

Amendment #17

In line 261 on page 6 of the printed bill, strike "3-1008" and insert in lieu thereof "191".

Amendment #18

In line 270 on page 6 of the printed bill, strike "3-1009" and insert in lieu thereof "192".

Amendment #19

In line 284 on page 6 of the printed bill, strike "3-1010" and insert in lieu thereof "193".

Amendment #20

In line 299 on page 7 of the printed bill, strike "3-1011" and insert in lieu thereof "194".

Amendment #14

In line 208 on page 4 of the printed bill, strike "3-1005" and insert in lieu thereof "188".

Amendment #15

In line 220 on page 5 of the printed bill, strike "3-1006" and insert in lieu thereof "189".

Amendment #16

In line 246 on page 5 of the printed bill, strike "3-1007" and insert in lieu thereof "190".

Amendment #17

In line 261 on page 6 of the printed bill, strike "3-1008" and insert in lieu thereof "191".

Amendment #18

In line 270 on page 6 of the printed bill, strike "3-1009" and insert in lieu thereof "192".

Amendment #19

In line 284 on page 6 of the printed bill, strike "3-1010" and insert in lieu thereof "193".

Amendment #20

In line 299 on page 7 of the printed bill, strike "3-1011" and insert in lieu thereof "194".

JUDICIAL PROCEEDINGS COMMITTEE BILLS

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1975.

Explanation

Twenty-three states have already adopted this legislation and have found it of great assistance in providing uniform protection and services for children on an interstate basis. It provides uniformity of procedure in an area where it is sorely needed as the best interests of the child are often best served by placement outside the state of domicile. Those situations to which the compact primarily addresses itself are (1) placement preliminary to possible adoption; (2) placement in foster care when no adoption is likely to occur, and (3) placement of children adjudicated delinquent in an institution of another state. Each child requiring placement will receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

Item No. 8-3

A BILL ENTITLED

AN ACT concerning

Interstate Compact on the Placement of Children

FOR the purpose of enacting the Interstate Compact on the Placement of Children and relating generally to the Interstate Compact on the Placement of Children.

BY adding to

Article - Courts and Judicial Proceedings
 Section 3-1001 through 3-1011, inclusive, to be
 under the new subtitle "Interstate Compact on the
 Placement of Children"
 Annotated Code of Maryland
 (1974 Volume and 1974 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That new Sections 3-1001 through 3-1011, inclusive, to be under the new subtitle "Interstate Compact on the Placement of Children" be and they are hereby added to Article - Courts and Judicial Proceedings, of the Annotated Code of Maryland (1974 Volume and 1974 Supplement) to read as follows:

JUDICIAL PROCEEDINGS COMMITTEE BILLS

Article - Courts and Judicial Proceedings
INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

3-1001.

THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN IS HEREBY ENTERED INTO BY THIS STATE WITH ALL STATES LEGALLY JOINING IN THE COMPACT IN THE FORM SUBSTANTIALLY AS FOLLOWS:

(A) FINANCIAL RESPONSIBILITY FOR ANY CHILD PLACED PURSUANT TO THE PROVISIONS OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN SHALL BE DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3-1006. HOWEVER, IN THE EVENT OF PARTIAL OR COMPLETE DEFAULT OF PERFORMANCE THEREUNDER, THE PROVISIONS OF STATE LAWS FIXING RESPONSIBILITY FOR THE SUPPORT OF CHILDREN ALSO MAY BE INVOKED.

(B) THE "APPROPRIATE PUBLIC AUTHORITIES" AS USED IN SECTION 3-1004 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN SHALL, WITH REFERENCE TO THIS STATE, MEAN THE DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES. THIS DEPARTMENT SHALL RECEIVE AND ACT WITH REFERENCE TO NOTICES REQUIRED BY ARTICLE III.

(C) AS USED IN SUBSECTION (A) OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, THE PHRASE "APPROPRIATE AUTHORITY IN THE RECEIVING STATE" WITH REFERENCE TO THIS STATE SHALL MEAN THE DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES.

(D) THE OFFICERS AND AGENCIES OF THIS STATE AND ITS SUBDIVISIONS HAVING AUTHORITY TO PLACE CHILDREN ARE HEREBY EMPOWERED TO ENTER INTO AGREEMENTS WITH APPROPRIATE OFFICERS OR AGENCIES OF OR IN OTHER PARTY STATES PURSUANT TO SUBSECTION (B) OF SECTION 3-1006 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN. ANY SUCH AGREEMENT WHICH CONTAINS A FINANCIAL COMMITMENT OR IMPOSES A FINANCIAL OBLIGATION ON THIS STATE OR SUBDIVISION OR AGENCY THEREOF SHALL NOT BE BINDING UNLESS IT HAS THE APPROVAL IN WRITING OF THE DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES.

(E) ANY REQUIREMENTS FOR VISITATION, INSPECTION OR SUPERVISION OF CHILDREN, HOMES, INSTITUTIONS OR OTHER AGENCIES IN ANOTHER PARTY STATE WHICH MAY APPLY SHALL BE DEEMED TO BE MET IF PERFORMED PURSUANT TO AN AGREEMENT ENTERED INTO BY APPROPRIATE OFFICERS OR AGENCIES OF THIS STATE OR A SUBDIVISION THEREOF AS CONTEMPLATED BY SUBSECTION (E) OF SECTION 3-1006 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

(F) ANY PROVISIONS OF LAW RESTRICTING OUT-OF-STATE

JUDICIAL PROCEEDINGS COMMITTEE BILLS

PLACEMENT SHALL NOT APPLY TO PLACEMENTS MADE PURSUANT TO THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

(G) ANY COURT HAVING JURISDICTION TO PLACE DELINQUENT CHILDREN MAY PLACE SUCH A CHILD IN AN INSTITUTION OF OR IN ANOTHER STATE PURSUANT TO SECTION 3-1007 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN AND SHALL RETAIN JURISDICTION AS PROVIDED IN SECTION 3-1006 THEREOF.

(H) AS USED IN SECTION 3-1008 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, THE TERM "EXECUTIVE HEAD" MEANS THE GOVERNOR. THE GOVERNOR IS HEREBY AUTHORIZED TO APPOINT A COMPACT ADMINISTRATOR IN ACCORDANCE WITH THE TERMS OF SECTION 3-1008.

3-1002.

IT IS THE PURPOSE AND POLICY OF THE PARTY STATES TO COOPERATE WITH EACH OTHER IN THE INTERSTATE PLACEMENT OF CHILDREN TO THE END THAT:

(A) EACH CHILD REQUIRING PLACEMENT SHALL RECEIVE THE MAXIMUM OPPORTUNITY TO BE PLACED IN A SUITABLE ENVIRONMENT AND WITH PERSONS OR INSTITUTIONS HAVING APPROPRIATE QUALIFICATIONS AND FACILITIES TO PROVIDE A NECESSARY AND DESIRABLE DEGREE AND TYPE OF CARE.

(B) THE APPROPRIATE AUTHORITIES IN A STATE WHERE A CHILD IS TO BE PLACED MAY HAVE FULL OPPORTUNITY TO ASCERTAIN THE CIRCUMSTANCES OF THE PROPOSED PLACEMENT, THEREBY PROMOTING FULL COMPLIANCE WITH APPLICABLE REQUIREMENTS FOR THE PROTECTION OF THE CHILD.

(C) THE PROPER AUTHORITIES OF THE STATE FROM WHICH THE PLACEMENT IS MADE MAY OBTAIN THE MOST COMPLETE INFORMATION ON THE BASIS OF WHICH TO EVALUATE A PROJECTED PLACEMENT BEFORE IT IS MADE.

(D) APPROPRIATE JURISDICTIONAL ARRANGEMENTS FOR THE CARE OF CHILDREN WILL BE PROMOTED.

3-1003.

(A) AS USED IN THIS COMPACT:

(B) "CHILD" MEANS A PERSON WHO, BY REASON OF MINORITY, IS LEGALLY SUBJECT TO PARENTAL, GUARDIANSHIP OR SIMILAR CONTROL.

(C) "SENDING AGENCY" MEANS A PARTY STATE, OFFICER OR EMPLOYEE THEREOF; A SUBDIVISION OF A PARTY STATE, OR OFFICER OR EMPLOYEE THEREOF; A COURT OF A PARTY STATE; A PERSON, CORPORATION, ASSOCIATION, CHARITABLE AGENCY OR

JUDICIAL PROCEEDINGS COMMITTEE BILLS

OTHER ENTITY WHICH SENDS, BRINGS, OR CAUSES TO BE SENT OR BROUGHT ANY CHILD TO ANOTHER PARTY STATE.

(D) "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT, WHETHER BY PUBLIC AUTHORITIES OR PRIVATE PERSONS OR AGENCIES, AND WHETHER FOR PLACEMENT WITH STATE OR LOCAL PUBLIC AUTHORITIES OR FOR PLACEMENT WITH PRIVATE AGENCIES OR PERSONS.

(E) "PLACEMENT" MEANS THE ARRANGEMENT FOR THE CARE OF A CHILD IN A FAMILY FREE OR BOARDING HOME OR IN A CHILD-CARING AGENCY OR INSTITUTION BUT DOES NOT INCLUDE ANY INSTITUTION CARING FOR THE MENTALLY ILL, MENTALLY DEFECTIVE OR EPILEPTIC OR ANY INSTITUTION PRIMARILY EDUCATIONAL IN CHARACTER, AND ANY HOSPITAL OR OTHER MEDICAL FACILITY.

3-1004.

(A) NO SENDING AGENCY SHALL SEND, BRING, OR CAUSE TO BE SENT OR BROUGHT INTO ANY OTHER PARTY STATE ANY CHILD FOR PLACEMENT IN FOSTER CARE OR AS A PRELIMINARY TO A POSSIBLE ADOPTION UNLESS THE SENDING AGENCY SHALL COMPLY WITH EACH AND EVERY REQUIREMENT SET FORTH IN THIS ARTICLE AND WITH THE APPLICABLE LAWS OF THE RECEIVING STATE GOVERNING THE PLACEMENT OF CHILDREN THEREIN.

(B) PRIOR TO SENDING, BRINGING OR CAUSING ANY CHILD TO BE SENT OR BROUGHT INTO A RECEIVING STATE FOR PLACEMENT IN FOSTER CARE OR AS A PRELIMINARY TO A POSSIBLE ADOPTION, THE SENDING AGENCY SHALL FURNISH THE APPROPRIATE PUBLIC AUTHORITIES IN THE RECEIVING STATE WRITTEN NOTICE OF THE INTENTION TO SEND, BRING, OR PLACE THE CHILD IN THE RECEIVING STATE. THE NOTICE SHALL CONTAIN:

(1) THE NAME, DATE AND PLACE OF BIRTH OF THE CHILD.

(2) THE IDENTITY AND ADDRESS OR ADDRESSES OF THE PARENTS OR LEGAL GUARDIAN.

(3) THE NAME AND ADDRESS OF THE PERSON, AGENCY OR INSTITUTION TO OR WITH WHICH THE SENDING AGENCY PROPOSES TO SEND, BRING, OR PLACE THE CHILD.

(4) A FULL STATEMENT OF THE REASONS FOR SUCH PROPOSED ACTION AND EVIDENCE OF THE AUTHORITY PURSUANT TO WHICH THE PLACEMENT IS PROPOSED TO BE MADE.

(C) ANY PUBLIC OFFICER OR AGENCY IN A RECEIVING STATE WHICH IS IN RECEIPT OF A NOTICE PURSUANT TO PARAGRAPH (B) OF THIS ARTICLE MAY REQUEST OF THE SENDING

JUDICIAL PROCEEDINGS COMMITTEE BILLS

AGENCY, OR ANY OTHER APPROPRIATE OFFICER OR AGENCY OF OR IN THE SENDING AGENCY'S STATE, AND SHALL BE ENTITLED TO RECEIVE THEREFROM SUCH SUPPORTING OR ADDITIONAL INFORMATION AS IT MAY DEEM NECESSARY UNDER THE CIRCUMSTANCES TO CARRY OUT THE PURPOSE AND POLICY OF THIS COMPACT.

(D) THE CHILD SHALL NOT BE SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT INTO THE RECEIVING STATE UNTIL THE APPROPRIATE PUBLIC AUTHORITIES IN THE RECEIVING STATE SHALL NOTIFY THE SENDING AGENCY, IN WRITING, TO THE EFFECT THAT THE PROPOSED PLACEMENT DOES NOT APPEAR TO BE CONTRARY TO THE INTERESTS OF THE CHILD.

3-1005.

THE SENDING, BRINGING, OR CAUSING TO BE SENT OR BROUGHT INTO ANY RECEIVING STATE OF A CHILD IN VIOLATION OF THE TERMS OF THIS COMPACT SHALL CONSTITUTE A VIOLATION OF THE LAWS RESPECTING THE PLACEMENT OF CHILDREN OF BOTH THE STATE IN WHICH THE SENDING AGENCY IS LOCATED OR FROM WHICH IT SENDS OR BRINGS THE CHILD AND OF THE RECEIVING STATE. SUCH VIOLATION MAY BE PUNISHED OR SUBJECTED TO PENALTY IN EITHER JURISDICTION IN ACCORDANCE WITH ITS LAWS. IN ADDITION TO LIABILITY FOR ANY SUCH PUNISHMENT OR PENALTY, ANY SUCH VIOLATION SHALL CONSTITUTE FULL AND SUFFICIENT GROUNDS FOR THE SUSPENSION OR REVOCATION OF ANY LICENSE, PERMIT, OR OTHER LEGAL AUTHORIZATION HELD BY THE SENDING AGENCY WHICH EMPOWERS OR ALLOWS IT TO PLACE, OR CARE FOR CHILDREN.

3-1006.

(A) THE SENDING AGENCY SHALL RETAIN JURISDICTION OVER THE CHILD SUFFICIENT TO DETERMINE ALL MATTERS IN RELATION TO THE CUSTODY, SUPERVISION, CARE, TREATMENT AND DISPOSITION OF THE CHILD WHICH IT WOULD HAVE HAD IF THE CHILD HAD REMAINED IN THE SENDING AGENCY'S STATE, UNTIL THE CHILD IS ADOPTED, REACHES MAJORITY, BECOMES SELF-SUPPORTING OR IS DISCHARGED WITH THE CONCURRENCE OF THE APPROPRIATE AUTHORITY IN THE RECEIVING STATE. SUCH JURISDICTION SHALL ALSO INCLUDE THE POWER TO EFFECT OR CAUSE THE RETURN OF THE CHILD OR ITS TRANSFER TO ANOTHER LOCATION AND CUSTODY PURSUANT TO LAW. THE SENDING AGENCY SHALL CONTINUE TO HAVE FINANCIAL RESPONSIBILITY FOR SUPPORT AND MAINTENANCE OF THE CHILD DURING THE PERIOD OF THE PLACEMENT. NOTHING CONTAINED HEREIN SHALL DEFEAT A CLAIM OF JURISDICTION BY A RECEIVING STATE SUFFICIENT TO DEAL WITH AN ACT OF DELINQUENCY OR CRIME COMMITTED THEREIN.

(B) WHEN THE SENDING AGENCY IS A PUBLIC AGENCY, IT MAY ENTER INTO AN AGREEMENT WITH AN AUTHORIZED PUBLIC OR PRIVATE AGENCY IN THE RECEIVING STATE PROVIDING FOR THE

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PERFORMANCE OF ONE OR MORE SERVICES IN RESPECT OF SUCH CASE BY THE LATTER AS AGENT FOR THE SENDING AGENCY.

(C) NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PREVENT A PRIVATE CHARITABLE AGENCY AUTHORIZED TO PLACE CHILDREN IN THE RECEIVING STATE FROM PERFORMING SERVICES OR ACTING AS AGENT IN THAT STATE FOR A PRIVATE CHARITABLE AGENCY OF THE SENDING STATE; NOR TO PREVENT THE AGENCY IN THE RECEIVING STATE FROM DISCHARGING FINANCIAL RESPONSIBILITY FOR THE SUPPORT AND MAINTENANCE OF A CHILD WHO HAS BEEN PLACED ON BEHALF OF THE SENDING AGENCY WITHOUT RELIEVING THE RESPONSIBILITY SET FORTH IN PARAGRAPH (A) HEREOF.

3-1007.

A CHILD ADJUDICATED DELINQUENT MAY BE PLACED IN AN INSTITUTION IN ANOTHER PARTY JURISDICTION PURSUANT TO THIS COMPACT BUT NO SUCH PLACEMENT SHALL BE MADE UNLESS THE CHILD IS GIVEN A COURT HEARING ON NOTICE TO THE PARENT OR GUARDIAN WITH OPPORTUNITY TO BE HEARD, PRIOR TO HIS BEING SENT TO SUCH OTHER PARTY JURISDICTION FOR INSTITUTIONAL CARE AND THE COURT FINDS THAT:

1. EQUIVALENT FACILITIES FOR THE CHILD ARE NOT AVAILABLE IN THE SENDING AGENCY'S JURISDICTION; AND

2. INSTITUTIONAL CARE IN THE OTHER JURISDICTION IS IN THE BEST INTEREST OF THE CHILD AND WILL NOT PRODUCE UNDUE HARDSHIP.

3-1008.

THE EXECUTIVE HEAD OF EACH JURISDICTION PARTY TO THIS COMPACT SHALL DESIGNATE AN OFFICER WHO SHALL BE GENERAL COORDINATOR OF ACTIVITIES UNDER THIS COMPACT IN HIS JURISDICTION AND WHO, ACTING JOINTLY WITH LIKE OFFICERS OF OTHER PARTY JURISDICTIONS, SHALL HAVE POWER TO PROMULGATE RULES AND REGULATIONS TO CARRY OUT MORE EFFECTIVELY THE TERMS AND PROVISIONS OF THIS COMPACT.

3-1009.

THIS COMPACT SHALL NOT APPLY TO:

(A) THE SENDING OR BRINGING OF A CHILD INTO A RECEIVING STATE BY HIS PARENT, STEP-PARENT, GRANDPARENT, ADULT BROTHER OR SISTER, ADULT UNCLE OR AUNT, OR HIS GUARDIAN AND LEAVING THE CHILD WITH ANY SUCH RELATIVE OR NON-AGENCY GUARDIAN IN THE RECEIVING STATE.

(B) ANY PLACEMENT, SENDING OR BRINGING OF A CHILD INTO A RECEIVING STATE PURSUANT TO ANY OTHER INTERSTATE COMPACT TO WHICH BOTH THE STATE FROM WHICH THE CHILD IS

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SENT OR BROUGHT AND THE RECEIVING STATE ARE PARTY, OR TO ANY OTHER AGREEMENT BETWEEN SAID STATES WHICH HAS THE FORCE OF LAW.

3-1010.

THIS COMPACT SHALL BE OPEN TO JOINDER BY ANY STATE, TERRITORY OR POSSESSION OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, AND WITH THE CONSENT OF CONGRESS, THE GOVERNMENT OF CANADA OR ANY PROVINCE THEREOF. IT SHALL BECOME EFFECTIVE WITH RESPECT TO ANY SUCH JURISDICTION WHEN SUCH JURISDICTION HAS ENACTED THE SAME INTO LAW. WITHDRAWAL FROM THIS COMPACT SHALL BE BY THE ENACTMENT OF A STATUTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL TWO YEARS AFTER THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE GOVERNOR OF EACH OTHER PARTY JURISDICTION. WITHDRAWAL OF A PARTY STATE SHALL NOT AFFECT THE RIGHTS, DUTIES AND OBLIGATIONS UNDER THIS COMPACT OF ANY SENDING AGENCY THEREIN WITH RESPECT TO A PLACEMENT MADE PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL.

3-1011.

THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE THE PURPOSES THEREOF. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY PARTY STATE OR OF THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY STATE PARTY THERETO, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING STATES AND IN FULL FORCE AND EFFECT AS TO THE STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1975.

Explanation

Senate Bill 76 of the 1974 Session was intended to clarify the right of appeal from the Circuit Court to the Court of Appeals from zoning reclassifications made by the legislative bodies of non-charter counties, municipalities and the City of Baltimore under Article 66B of the Annotated Code. Senate Bill 76 also empowered

rather than to distinguish natural parents from adoptive parents. ET § 1-207 provides that an adopted child is treated as a natural child of the adopting parent. In § 5-520(b) and (c) of this subtitle, the distinction between natural parents and adoptive parents is retained because the statute deals specifically with the relationship between natural and adoptive parents and with their distinct rights. In § 5-529 of this subtitle, the reference to a "natural parent" is retained because the General Assembly did not delete the word "natural" in the revision of a companion provision in HG § 6-131 when that limitation was brought to the General Assembly's attention. This revision is called to the attention of the General Assembly.

Also throughout this subtitle, there are various provisions that inconsistently refer to a child's "parent" in some instances and to a child's "parent or guardian" in others. These discrepancies are retained, but the Commission to Revise the Annotated Code recommends that the General Assembly review them to determine whether these variations are appropriate.

SUBTITLE 6. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

5-601. COMPACT ENTERED INTO; GENERAL PROVISIONS.

THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN IS HEREBY ENTERED INTO BY THIS STATE WITH ALL STATES LEGALLY JOINING IN THE COMPACT IN THE FORM SUBSTANTIALLY AS FOLLOWS:

(A) FINANCIAL RESPONSIBILITY.

FINANCIAL RESPONSIBILITY FOR ANY CHILD PLACED PURSUANT TO THE PROVISIONS OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN SHALL BE DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF § 5-606 OF THIS SUBTITLE. HOWEVER, IN THE EVENT OF PARTIAL OR COMPLETE DEFAULT OF PERFORMANCE THEREUNDER, THE PROVISIONS OF STATE LAWS FIXING RESPONSIBILITY FOR THE SUPPORT OF CHILDREN ALSO MAY BE INVOKED.

(B) "APPROPRIATE PUBLIC AUTHORITIES" DEFINED.

THE "APPROPRIATE PUBLIC AUTHORITIES" AS USED IN § 5-604 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN SHALL, WITH REFERENCE TO THIS STATE, MEAN THE DEPARTMENT OF HUMAN RESOURCES. THIS DEPARTMENT SHALL RECEIVE AND ACT WITH REFERENCE TO NOTICES REQUIRED BY § 5-604 OF THIS SUBTITLE.

(C) "APPROPRIATE AUTHORITY IN THE RECEIVING STATE" DEFINED.

AS USED IN § 5-606(A) OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, THE PHRASE "APPROPRIATE AUTHORITY IN THE RECEIVING STATE" WITH REFERENCE TO THIS STATE SHALL MEAN THE DEPARTMENT OF HUMAN RESOURCES.

(D) AGREEMENTS.

THE OFFICERS AND AGENCIES OF THIS STATE AND ITS SUBDIVISIONS HAVING AUTHORITY TO PLACE CHILDREN ARE HEREBY EMPOWERED TO ENTER INTO AGREEMENTS WITH APPROPRIATE OFFICERS OR AGENCIES OF OR IN OTHER PARTY STATES PURSUANT TO § 5-606(B) OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN. ANY SUCH AGREEMENT WHICH CONTAINS A FINANCIAL COMMITMENT OR IMPOSES A FINANCIAL OBLIGATION ON THIS STATE OR SUBDIVISION OR AGENCY THEREOF SHALL NOT BE BINDING UNLESS IT HAS THE APPROVAL IN WRITING OF THE DEPARTMENT OF HUMAN RESOURCES.

(E) REQUIREMENTS FOR VISITATION, INSPECTION, OR SUPERVISION.

ANY REQUIREMENTS FOR VISITATION, INSPECTION OR SUPERVISION OF CHILDREN, HOMES, INSTITUTIONS OR OTHER AGENCIES IN ANOTHER PARTY STATE WHICH MAY APPLY SHALL BE DEEMED TO BE MET IF PERFORMED PURSUANT TO AN AGREEMENT ENTERED INTO BY APPROPRIATE OFFICERS OR AGENCIES OF THIS STATE OR A SUBDIVISION THEREOF AS CONTEMPLATED BY § 5-606(B) OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

(F) LAWS RESTRICTING OUT-OF-STATE PLACEMENT.

ANY PROVISIONS OF LAW RESTRICTING OUT-OF-STATE PLACEMENT SHALL NOT APPLY TO PLACEMENTS MADE PURSUANT TO THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

(G) JURISDICTION OF COURT.

ANY COURT HAVING JURISDICTION TO PLACE DELINQUENT CHILDREN MAY PLACE SUCH A CHILD IN AN INSTITUTION OF OR IN ANOTHER STATE PURSUANT TO § 5-607 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN AND SHALL RETAIN JURISDICTION AS PROVIDED IN § 5-606 OF THIS SUBTITLE.

(H) "EXECUTIVE HEAD" DEFINED; APPOINTMENT OF COMPACT ADMINISTRATOR.

AS USED IN § 5-608 OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, THE TERM "EXECUTIVE HEAD" MEANS THE GOVERNOR. THE GOVERNOR IS HEREBY AUTHORIZED TO APPOINT A COMPACT ADMINISTRATOR IN ACCORDANCE WITH THE TERMS OF § 5-608 OF THIS SUBTITLE.

(I) INAPPLICABILITY OF CERTAIN DEFINITIONS.

THE DEFINITIONS IN § 1-101 OF THIS ARTICLE DO NOT APPLY TO THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN SET FORTH IN THIS SUBTITLE.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 208.

Throughout this section, internal cross-references are corrected and the present name of the Department of

Human Resources is substituted for the former, obsolete reference to "the Department of Employment and Social Services".

Subsection (i) of this section is new language added to avoid possible confusion over the applicability of the definitions appearing in § 1-101 of this article. The Interstate Compact on the Placement of Children contains its own definitions, which are supplemented by the definitions in this section.

No other changes are made.

As to the general policy of the Commission to Revise the Annotated Code concerning changes in interstate compacts, see the General Revisor's Note to this subtitle.

Because this section is not part of the Interstate Compact on the Placement of Children, the Commission has determined that the definitions in § 5-603 of this subtitle do not apply to this section.

5-602. PURPOSE AND POLICY.

IT IS THE PURPOSE AND POLICY OF THE PARTY STATES TO COOPERATE WITH EACH OTHER IN THE INTERSTATE PLACEMENT OF CHILDREN TO THE END THAT:

(1) EACH CHILD REQUIRING PLACEMENT SHALL RECEIVE THE MAXIMUM OPPORTUNITY TO BE PLACED IN A SUITABLE ENVIRONMENT AND WITH PERSONS OR INSTITUTIONS HAVING APPROPRIATE QUALIFICATIONS AND FACILITIES TO PROVIDE A NECESSARY AND DESIRABLE DEGREE AND TYPE OF CARE.

(2) THE APPROPRIATE AUTHORITIES IN A STATE WHERE A CHILD IS TO BE PLACED MAY HAVE FULL OPPORTUNITY TO ASCERTAIN THE CIRCUMSTANCES OF THE PROPOSED PLACEMENT, THEREBY PROMOTING FULL COMPLIANCE WITH APPLICABLE REQUIREMENTS FOR THE PROTECTION OF THE CHILD.

(3) THE PROPER AUTHORITIES OF THE STATE FROM WHICH THE PLACEMENT IS MADE MAY OBTAIN THE MOST COMPLETE INFORMATION ON THE BASIS OF WHICH TO EVALUATE A PROJECTED PLACEMENT BEFORE IT IS MADE.

(4) APPROPRIATE JURISDICTIONAL ARRANGEMENTS FOR THE CARE OF CHILDREN WILL BE PROMOTED.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 209.

The designations of paragraphs are changed to conform to the designations used throughout this article.

No other changes are made.

Defined terms: "Child" § 5-603
"Placement" § 5-603

5-603. DEFINITIONS.

AS USED IN THIS COMPACT:

(1) "CHILD" MEANS A PERSON WHO, BY REASON OF MINORITY, IS LEGALLY SUBJECT TO PARENTAL, GUARDIANSHIP OR SIMILAR CONTROL.

(2) "SENDING AGENCY" MEANS A PARTY STATE, OFFICER OR EMPLOYEE THEREOF; A SUBDIVISION OF A PARTY STATE, OR OFFICER OR EMPLOYEE THEREOF; A COURT OF A PARTY STATE; A PERSON, CORPORATION, ASSOCIATION, CHARITABLE AGENCY OR OTHER ENTITY WHICH SENDS, BRINGS, OR CAUSES TO BE SENT OR BROUGHT ANY CHILD TO ANOTHER PARTY STATE.

(3) "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT, WHETHER BY PUBLIC AUTHORITIES OR PRIVATE PERSONS OR AGENCIES, AND WHETHER FOR PLACEMENT WITH STATE OR LOCAL PUBLIC AUTHORITIES OR FOR PLACEMENT WITH PRIVATE AGENCIES OR PERSONS.

(4) "PLACEMENT" MEANS THE ARRANGEMENT FOR THE CARE OF A CHILD IN A FAMILY FREE OR BOARDING HOME OR IN A CHILD-CARING AGENCY OR INSTITUTION BUT DOES NOT INCLUDE ANY INSTITUTION CARING FOR THE MENTALLY ILL, MENTALLY DEFECTIVE OR EPILEPTIC OR ANY INSTITUTION PRIMARILY EDUCATIONAL IN CHARACTER, AND ANY HOSPITAL OR OTHER MEDICAL FACILITY.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 210.

The designations of paragraphs are changed to conform to the designations used throughout this article.

No other changes are made.

5-604. PROCEDURE BEFORE SENDING CHILD INTO STATE.

(A) SENDING AGENCY TO COMPLY WITH LAWS.

NO SENDING AGENCY SHALL SEND, BRING, OR CAUSE TO BE SENT OR BROUGHT INTO ANY OTHER PARTY STATE ANY CHILD FOR PLACEMENT IN FOSTER CARE OR AS A PRELIMINARY TO A POSSIBLE ADOPTION UNLESS THE SENDING AGENCY SHALL COMPLY WITH EACH AND EVERY REQUIREMENT SET FORTH IN THIS SECTION AND WITH THE APPLICABLE LAWS OF THE RECEIVING STATE GOVERNING THE PLACEMENT OF CHILDREN THEREIN.

(B) NOTICE OF INTENTION TO SEND.

PRIOR TO SENDING, BRINGING OR CAUSING ANY CHILD TO BE SENT OR BROUGHT INTO A RECEIVING STATE FOR PLACEMENT IN FOSTER CARE OR AS A PRELIMINARY TO A POSSIBLE ADOPTION, THE SENDING AGENCY SHALL FURNISH THE APPROPRIATE PUBLIC AUTHORITIES IN THE RECEIVING STATE WRITTEN NOTICE OF THE INTENTION TO SEND, BRING, OR PLACE THE CHILD IN THE RECEIVING STATE. THE NOTICE SHALL CONTAIN:

- (1) THE NAME, DATE AND PLACE OF BIRTH OF THE CHILD.
- (2) THE IDENTITY AND ADDRESS OR ADDRESSES OF THE PARENTS OR LEGAL GUARDIAN.
- (3) THE NAME AND ADDRESS OF THE PERSON, AGENCY OR INSTITUTION TO OR WITH WHICH THE SENDING AGENCY PROPOSES TO SEND, BRING, OR PLACE THE CHILD.
- (4) A FULL STATEMENT OF THE REASONS FOR SUCH PROPOSED ACTION AND EVIDENCE OF THE AUTHORITY PURSUANT TO WHICH THE PLACEMENT IS PROPOSED TO BE MADE.

(C) SUPPORTING INFORMATION.

ANY PUBLIC OFFICER OR AGENCY IN A RECEIVING STATE WHICH IS IN RECEIPT OF A NOTICE PURSUANT TO SUBSECTION (B) OF THIS SECTION MAY REQUEST OF THE SENDING AGENCY, OR ANY OTHER APPROPRIATE OFFICER OR AGENCY OF OR IN THE SENDING AGENCY'S STATE, AND SHALL BE ENTITLED TO RECEIVE THEREFROM SUCH SUPPORTING OR ADDITIONAL INFORMATION AS IT MAY DEEM NECESSARY UNDER THE CIRCUMSTANCES TO CARRY OUT THE PURPOSE AND POLICY OF THIS COMPACT.

(D) REQUIRED NOTICE CONCERNING INTERESTS OF CHILD.

THE CHILD SHALL NOT BE SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT INTO THE RECEIVING STATE UNTIL THE APPROPRIATE PUBLIC AUTHORITIES IN THE RECEIVING STATE SHALL NOTIFY THE SENDING AGENCY, IN WRITING, TO THE EFFECT THAT THE PROPOSED PLACEMENT DOES NOT APPEAR TO BE CONTRARY TO THE INTERESTS OF THE CHILD.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 211.

Throughout this section, internal cross-references are corrected.

No other changes are made.

Defined terms: "Appropriate public authorities" § 5-601
"Child" § 5-603 "Placement" § 5-603
"Receiving state" § 5-603 "Sending agency" § 5-603

5-605. PENALTIES FOR VIOLATION OF COMPACT.

THE SENDING, BRINGING, OR CAUSING TO BE SENT OR BROUGHT INTO ANY RECEIVING STATE OF A CHILD IN VIOLATION OF THE TERMS OF THIS COMPACT SHALL CONSTITUTE A VIOLATION OF THE LAWS RESPECTING THE

PLACEMENT OF CHILDREN OF BOTH THE STATE IN WHICH THE SENDING AGENCY IS LOCATED OR FROM WHICH IT SENDS OR BRINGS THE CHILD AND OF THE RECEIVING STATE. SUCH VIOLATION MAY BE PUNISHED OR SUBJECTED TO PENALTY IN EITHER JURISDICTION IN ACCORDANCE WITH ITS LAWS. IN ADDITION TO LIABILITY FOR ANY SUCH PUNISHMENT OR PENALTY, ANY SUCH VIOLATION SHALL CONSTITUTE FULL AND SUFFICIENT GROUNDS FOR THE SUSPENSION OR REVOCATION OF ANY LICENSE, PERMIT, OR OTHER LEGAL AUTHORIZATION HELD BY THE SENDING AGENCY WHICH EMPOWERS OR ALLOWS IT TO PLACE, OR CARE FOR CHILDREN.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 212.

No changes are made.

Defined terms: "Child" § 5-603
"Placement" § 5-603 "Receiving state" § 5-603
"Sending agency" § 5-603

5-606. SENDING AGENCY TO RETAIN JURISDICTION OVER CHILD; AGREEMENTS FOR SERVICES; AUTHORITY OF PRIVATE CHARITABLE AGENCIES; FINANCIAL RESPONSIBILITY.

(A) JURISDICTION OVER CHILD.

THE SENDING AGENCY SHALL RETAIN JURISDICTION OVER THE CHILD SUFFICIENT TO DETERMINE ALL MATTERS IN RELATION TO THE CUSTODY, SUPERVISION, CARE, TREATMENT AND DISPOSITION OF THE CHILD WHICH IT WOULD HAVE HAD IF THE CHILD HAD REMAINED IN THE SENDING AGENCY'S STATE, UNTIL THE CHILD IS ADOPTED, REACHES MAJORITY, BECOMES SELF-SUPPORTING OR IS DISCHARGED WITH THE CONCURRENCE OF THE APPROPRIATE AUTHORITY IN THE RECEIVING STATE. SUCH JURISDICTION SHALL ALSO INCLUDE THE POWER TO EFFECT OR CAUSE THE RETURN OF THE CHILD OR ITS TRANSFER TO ANOTHER LOCATION AND CUSTODY PURSUANT TO LAW. THE SENDING AGENCY SHALL CONTINUE TO HAVE FINANCIAL RESPONSIBILITY FOR SUPPORT AND MAINTENANCE OF THE CHILD DURING THE PERIOD OF THE PLACEMENT. NOTHING CONTAINED HEREIN SHALL DEFEAT A CLAIM OF JURISDICTION BY A RECEIVING STATE SUFFICIENT TO DEAL WITH AN ACT OF DELINQUENCY OR CRIME COMMITTED THEREIN.

(B) AGREEMENTS FOR SERVICES.

WHEN THE SENDING AGENCY IS A PUBLIC AGENCY, IT MAY ENTER INTO AN AGREEMENT WITH AN AUTHORIZED PUBLIC OR PRIVATE AGENCY IN THE RECEIVING STATE PROVIDING FOR THE PERFORMANCE OF ONE OR MORE SERVICES IN RESPECT OF SUCH CASE BY THE LATTER AS AGENT FOR THE SENDING AGENCY.

(C) AUTHORITY OF PRIVATE CHARITABLE AGENCIES; RECEIVING STATE DISCHARGING FINANCIAL RESPONSIBILITY.

NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PREVENT A PRIVATE CHARITABLE AGENCY AUTHORIZED TO PLACE CHILDREN IN THE RECEIVING STATE FROM PERFORMING SERVICES OR ACTING AS AGENT IN

THAT STATE FOR A PRIVATE CHARITABLE AGENCY OF THE SENDING STATE; NOR TO PREVENT THE AGENCY IN THE RECEIVING STATE FROM DISCHARGING FINANCIAL RESPONSIBILITY FOR THE SUPPORT AND MAINTENANCE OF A CHILD WHO HAS BEEN PLACED ON BEHALF OF THE SENDING AGENCY WITHOUT RELIEVING THE RESPONSIBILITY SET FORTH IN SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 212A.

An internal cross-reference is corrected.

No other changes are made.

Defined terms: "Appropriate authority
in the receiving state" § 5-601
"Child" § 5-603 "Receiving state" § 5-603
"Sending agency" § 5-603

5-607. PLACEMENT OF DELINQUENT CHILDREN.

A CHILD ADJUDICATED DELINQUENT MAY BE PLACED IN AN INSTITUTION IN ANOTHER PARTY JURISDICTION PURSUANT TO THIS COMPACT BUT NO SUCH PLACEMENT SHALL BE MADE UNLESS THE CHILD IS GIVEN A COURT HEARING ON NOTICE TO THE PARENT OR GUARDIAN WITH OPPORTUNITY TO BE HEARD, PRIOR TO THE CHILD BEING SENT TO SUCH OTHER PARTY JURISDICTION FOR INSTITUTIONAL CARE AND THE COURT FINDS THAT:

(1) EQUIVALENT FACILITIES FOR THE CHILD ARE NOT AVAILABLE IN THE SENDING AGENCY'S JURISDICTION; AND

(2) INSTITUTIONAL CARE IN THE OTHER JURISDICTION IS IN THE BEST INTEREST OF THE CHILD AND WILL NOT PRODUCE UNDUE HARDSHIP.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 212B.

The designations of items are changed to conform to the designations used throughout this article.

In the introductory language of this section, the phrase "the child" is substituted for the former word "his" in light of Article 40, § 53C of the Code, which calls for "the use of words that are neutral as to gender".

No other changes are made.

Defined terms: "Child" § 5-603
"Placement" § 5-603 "Sending agency" § 5-603

5-608. DESIGNATION AND POWERS OF GENERAL COORDINATOR OF ACTIVITIES.

THE EXECUTIVE HEAD OF EACH JURISDICTION PARTY TO THIS COMPACT SHALL DESIGNATE AN OFFICER WHO SHALL BE GENERAL COORDINATOR OF ACTIVITIES UNDER THIS COMPACT IN THAT JURISDICTION AND WHO, ACTING JOINTLY WITH LIKE OFFICERS OF OTHER PARTY JURISDICTIONS, SHALL HAVE POWER TO PROMULGATE RULES AND REGULATIONS TO CARRY OUT MORE EFFECTIVELY THE TERMS AND PROVISIONS OF THIS COMPACT.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 212C.

The word "that" is substituted for the former word "his" in light of Article 40, § 53C of the Code, which calls for "the use of words that are neutral as to gender".

No other changes are made.

Defined term: "Executive head" § 5-601

5-609. APPLICABILITY OF COMPACT.

THIS COMPACT SHALL NOT APPLY TO:

(1) THE SENDING OR BRINGING OF A CHILD INTO A RECEIVING STATE BY THE CHILD'S PARENT, STEP-PARENT, GRANDPARENT, ADULT BROTHER OR SISTER, ADULT UNCLE OR AUNT, OR GUARDIAN AND LEAVING THE CHILD WITH ANY SUCH RELATIVE OR NON-AGENCY GUARDIAN IN THE RECEIVING STATE.

(2) ANY PLACEMENT, SENDING OR BRINGING OF A CHILD INTO A RECEIVING STATE PURSUANT TO ANY OTHER INTERSTATE COMPACT TO WHICH BOTH THE STATE FROM WHICH THE CHILD IS SENT OR BROUGHT AND THE RECEIVING STATE ARE PARTY, OR TO ANY OTHER AGREEMENT BETWEEN SAID STATES WHICH HAS THE FORCE OF LAW.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 212D.

The designations of items are changed to conform to the designations used throughout this article.

In item (1) of this section, the words "the child's" are substituted for the former word "his" in light of Article 40, § 53C of the Code, which calls for "the use of words that are neutral as to gender".

No other changes are made.

Defined terms: "Child" § 5-603
"Placement" § 5-603 "Receiving state" § 5-603
"Sending agency" § 5-603

5-610. JOINDER BY OTHER JURISDICTION; WITHDRAWAL FROM COMPACT.

THIS COMPACT SHALL BE OPEN TO JOINDER BY ANY STATE, TERRITORY OR POSSESSION OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, AND WITH THE CONSENT OF CONGRESS, THE GOVERNMENT OF CANADA OR ANY PROVINCE THEREOF. IT SHALL BECOME EFFECTIVE WITH RESPECT TO ANY SUCH JURISDICTION WHEN SUCH JURISDICTION HAS ENACTED THE SAME INTO LAW. WITHDRAWAL FROM THIS COMPACT SHALL BE BY THE ENACTMENT OF A STATUTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL TWO YEARS AFTER THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE GOVERNOR OF EACH OTHER PARTY JURISDICTION. WITHDRAWAL OF A PARTY STATE SHALL NOT AFFECT THE RIGHTS, DUTIES AND OBLIGATIONS UNDER THIS COMPACT OF ANY SENDING AGENCY THEREIN WITH RESPECT TO A PLACEMENT MADE PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 212E.

No changes are made.

Defined terms: "Placement" § 5-603
"Sending agency" § 5-603

5-611. LIBERAL CONSTRUCTION; SEVERABILITY.

THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE THE PURPOSES THEREOF. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY PARTY STATE OR OF THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY STATE PARTY THERETO, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING STATES AND IN FULL FORCE AND EFFECT AS TO THE STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

REVISOR'S NOTE: This section formerly appeared as Article 16, § 212F.

No changes are made.

GENERAL REVISOR'S NOTE:

It is the usual practice of the Commission to Revise the Annotated Code to make few, if any, changes in an interstate compact. However, the terms of § 5-601 of this subtitle only require that the compact be "in the form substantially as follows". Also, minor structural changes, such as the deletion of article designations, were made in the original enactment of the compact by the General Assembly. In enacting the compact as Ch. 266, Acts of 1975, the General Assembly corrected by amendment an erroneous cross-reference in the bill as introduced.

Therefore, the Commission to Revise the Annotated Code has made minor technical and stylistic changes to this compact. These changes include conforming cross-references to other sections within the compact, updating the name of a State agency, and deleting pronouns that are not neutral as to gender. These changes do not affect the substance of the compact, which has been enacted in 46 states.

SUBTITLE 7. NEGLECTED CHILDREN.

5-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Article 72A, § 4(a).

(B) COURT.

"COURT" MEANS:

(1) THE CIRCUIT COURT FOR A COUNTY SITTING AS A JUVENILE COURT; OR

(2) IN MONTGOMERY COUNTY, THE DISTRICT COURT SITTING AS A JUVENILE COURT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Article 72A, § 4(c).

Defined term: "County" § 1-101

(C) EDUCATOR OR SOCIAL WORKER.

(1) "EDUCATOR OR SOCIAL WORKER" MEANS ANY PROFESSIONAL EMPLOYEE OF ANY CORRECTIONAL, PUBLIC, PAROCHIAL OR PRIVATE EDUCATIONAL, HEALTH, JUVENILE SERVICE, SOCIAL, OR SOCIAL SERVICE AGENCY, INSTITUTION, OR LICENSED FACILITY.

(2) "EDUCATOR OR SOCIAL WORKER" INCLUDES:

(I) ANY TEACHER;

(II) ANY COUNSELOR;

(III) ANY SOCIAL WORKER;

(IV) ANY CASEWORKER; AND

(V) ANY PROBATION OR PAROLE OFFICER.

SUMMARY OF STATE CASES ADDRESSING ICPC

| JX | CASES | NOTES |
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| 3 rd Cir. | <i>McComb v. Wambaugh</i> , 934 F.2d 474 (3d Cir. 1991) (plain language, history and intent of ICPC reflects doesn't apply to noncustodial parents) | |
| AL | <p><i>S.L.J.F. v. Cherokee Cnty. Dep't of Human Res.</i>, 165 So. 3D 607 (Ala. Civ. App. 2014) (court upholds termination of parental rights against mother; ICPC implicated as home study process initiated for maternal grandparents and not approved, court cites <i>Clay</i>, and notes “lack of ICPC approval provides clear and convincing evidence to support conclusion that placement with the maternal grandparents had been properly considered and rejected as a potential viable alternative to termination of the mother’s parental rights.”)</p> <p><i>M.H. v. Calhoun Cty. D.H.R.</i>, 848 So. 2D 1011 (Ala. Civ. App. 2002) (interpreting <i>Clay</i> to stand for proposition that Alabama agency must investigate and provide rehabilitative services to parent residing in another state before proceeding with termination of parental rights, and agency not absolved of follow on responsibilities merely because of negative home study).</p> <p><i>D.S.S. v. Clay County Dep't of Human Res.</i>, 755 So. 2d 584 (Ala. Civ. App. 1999) (DSS claims “compact prevented transfer of children to out-of-state father without state approval”; court actually rules affirming termination for mother but reversing for father, where father lived in Georgia but was engaged with children and agency had argued that ICPC “prevented it from transferring [children] to Georgia without approval from the Georgia authorities”; court accepts that the ICPC applied but imposes higher duty on agency than just apprising father, and termination shouldn't have been done where father did not follow up on home study in Georgia).</p> | Alabama has not directly addressed a statutory argument that the ICPC does not apply to non-custodial parents, but in the past has expressed support for an agency’s position that it does, while also imposing a higher standard above a mere home study denial, before allowing termination to proceed against a natural parent. |
| AK | <i>Violet C. v. State</i> , 436 P.3d 1032 (Alaska 2019) (termination of parental rights for mother and father supported where agency made reasonable efforts to reunify; but ICPC process not started for father in Texas as he had only recently been released from | Appellate courts in Alaska do not appear to have squarely ruled whether the ICPC must be applied |

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| | <p>jail, didn't maintain contact, and was reincarcerated).</p> <p><i>Charles S. v. Alaska Dep't of Health & Soc. Servs.</i>, 442 P.3d 780 (Alaska 2019) (court overturns termination of parental rights against father and remanded for reconsideration of termination of mother's rights; ICPC implicated as agency maintained positive ICPC home study required before returning children to parents, but also in email expressed to proceed with termination as caseworker worried a positive result would "hurt our case," Washington state conducted a home study and approved, and court "concerned by the suggestion that OCS delayed the Washington ICPC home study for tactical litigation reasons and not for the best interests of the children.").</p> <p><i>Theresa L. v. State, Dept't of Health & Soc. Servs.</i>, 353 P.3d 831 (Alaska 2015) (court overturns termination of mother's parental rights because agency presented insufficient evidence children suffered from mental injury; ICPC implicated as mother had moved to Texas and agency had insisted it could not place children without Texas approval, and Texas had denied placements; court notes split of states on ICPC application to parental placements but doesn't reach issue as ICPC denial had no effect at lower court level on termination decision).</p> <p><i>G.C. v. State</i>, 67 P.3d 648 (Alaska 2003) (termination of father's parental rights upheld where evidence supported abandonment and reasonable efforts made at reunification; ICPC process started for paternal grandmother's house as father was incarcerated in Colorado where both lived, and denied).</p> <p><i>C.J. v. State</i>, 18 P.3d 1214 (Alaska 2001) (termination of father's parental rights overturned where agency did not produce evidence beyond a reasonable doubt or make active efforts towards reunification; ICPC process conducted and denied by Florida as father failed to respond to requests for information, but other information in the record from his home study was favorable).</p> | <p>to non-custodial parents, although the Alaska Supreme Court has recognized the split of authorities. In that case, the Court overturned a termination of a mother's parental rights where the ICPC process had been initiated and resulted in a denial of placement, but the lower court had terminated rights on other, insufficient grounds. Otherwise, although not directly addressing whether the ICPC must be applied to noncustodial parents, it has variously upheld termination proceedings where the ICPC process was not begun, overturned terminations that proceeded despite positive home studies and foreign states' approval, and also overturned terminations that occurred following foreign states' denials of placements.</p> |
| AR | <p><i>Ball v. Arkansas Department of Human Services</i>, 2011 Ark. App. 307 (Ark. Ct. App. 2011) (upheld termination of parental rights from challenge by mother who alleged ICPC process not completed on her, and court noted she had failed prior home studies and court "make[s] no comment on whether the ICPC was in fact applicable in this</p> | <p>Arkansas has held and reinforced that the ICPC does not apply to non custodial parents, based upon the statutory limitations on placements</p> |

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| | <p>case, given that the children were being considered for placement with a parent.)</p> <p><i>Ark. Dep't of Human Servs. v. Huff</i>, 65 S.W.3d 880 (Ark. 2002) (court upheld trial court's denial of termination of mother's parental rights and return of children to mother and exclusion of home study conducted by Colorado and its denial of placement as more prejudicial than probative, and presentation of due process problems as it could not be challenged; ICPC does not apply to placements with non custodial parents in another state, but only placing children for foster care or adoption)</p> <p><i>Nance v. Ark. Dep't Human Servs.</i>, 316 Ark. 43, 870 S.W.2d 721 (Ark. 1994) (ICPC only applies to foster care and adoptions, and not custody placements between parents)</p> | <p>pursuant to foster care or preliminary to adoption in Article III.</p> |
| AZ | <p><i>Donald W. v. Dep't of Child Safety</i>, No. 1 CA-JV 18-0322, __ P.2d __ (Ariz. Ct. App. 2019) (court overturns termination of parental rights where record was devoid of evidence supporting allegations of unfitness in original petition, petition should have been dismissed, and child should have been placed immediately with father; ICPC not required under those circumstances as "lack of knowledge concerning Father's fitness is not a basis to keep a child in out-of-home placement," doesn't directly overturn <i>Leonardo</i> but states while agency may request a courtesy check, unless it "has a reasonable basis for believing the out-of-state parent is unfit, it must turn over the child to the parent" without conducting a full home study. * 16. Court also notes denial of a ICPC home study "alone does not preclude a parent from gaining custody of the child," which would depend upon a fuller unfitness review. * 16.)</p> <p><i>Arizona Dept. of Economic Sec. v. Stanford</i>, 234 Ariz. 477 (Ariz. Ct. App. 2014) (after both parental rights terminated and child previously in custody of maternal grandmother, following her death subsequent placement for guardianship with maternal aunt required ICPC completion and approval, and court declines revisiting <i>Leonardo</i>)</p> <p><i>Arizona Dept. of Economic Sec. v. Leonardo</i>, 22 P.3d 513 (Ariz. Ct. App. 2001) (ICPC applies to non custodial parental placements)</p> | <p>Although Arizona had previously held that the ICPC applies to non custodial parents, rejecting the statutory analysis of <i>McComb</i>, see <i>Leonardo</i>, it has more recently moved away from that position. In <i>Donald W.</i> issued last year, the Court cited <i>Emoni</i>, <i>Alexis O</i>, and several other cases approvingly, in holding that continued out of home care, and any attendant ICPC home study for a non custodial parent, were not permissible in the absence of any affirmative evidence of unfitness on the part of the non custodial parent.</p> |
| CA | <p><i>San Diego Cnty. Health & Human Servs. Agency v. Christine L. (In re Liam L.)</i>, 193 Cal. Rptr. 3d 378, 393 n.8 (Cal. Ct. App. 2015) (challenge by mother to placement</p> | <p>California courts have consistently found that ICPC home studies may</p> |

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| <p>stemming from CINA case to natural out of state father; agency had required father to complete ICPC in interim period while he developed relations with child, but court references in fn “Although the Agency apparently required J.L. to obtain an ICPC approval, “[c]ompliance with ICPC is not required for placement with an out-of-state parent.” (<i>Patrick S., supra</i>, 218 Cal.App.4th at p. 1264, 160 Cal.Rptr.3d 832.)”)</p> <p><i>In re Patrick S. III</i>, 218 Cal. App. 4th 1254, 1264 (2013) (CINA removal of child from mother’s care, Court overturns denial of placement with out of state father; ICPC implicated as Wash. state initially did courtesy check – good – but ultimately denied home study placement as father failed to keep appointment; cites to earlier case holding ICPC was not required for placement with out of state parent <i>In re John M – 2006 –</i> reiterates lower court erred in distinguishing John M as where a child has a fit parent willing to assume custody, there is no need for state involvement unless placement would create a substantial risk of detriment)</p> <p><i>In re Suhey G.</i>, 221 Cal. App. 4th 732 (2013) (trial court orders ICPC evaluation of father, who was denied placement despite a favorable home study; appellate court finds not abuse of discretion to order home study and cites <i>In re John M</i> noting stating that while ICPC is not <i>mandatory</i> for non custodial parents, “nothing in the ICPC prevents the use of an ICPC evaluation as a means of gathering information before placing a child with such a parent” - <i>In re John M</i> court had suggested California could utilize provisions in the ICPC for agreements with other states or private entities for post-placement monitoring services)</p> <p><i>In re B.S.</i>, 209 Cal. App. 4th 246 (2012) (father with history of child offenses and alcohol abuse requests ICPC home study to facilitate placement, denied twice by Texas because of his history; Court reviews non mandatory nature of ICPC application to non custodial parents, but holds trial court need not “ignore an ICPC that was done at the best of the out of state parent, simply because it was not statutorily required.” *254).</p> <p><i>In re C.B.</i>, 188 Cal.App.4th 1024 (Cal. Ct. App. 2010) (reviews California cases consistently holding ICPC does not apply to non custodial parents, but noting splits with other states and commenting on problems)</p> | <p>not be required as a pre-condition to placement with a non custodial parent. However, they have also noted that aspects of the ICPC may still be used (e.g., courtesy checks & post-placement monitoring agreements), and where a parent voluntarily requests a home study those results may be considered prior to placement.</p> |
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| | <p><i>In re John M.</i>, 141 Cal.App.4th 1564, 47 Cal.Rptr.3d 281 (Cal. Ct. App. 2006) (dependency petition filed based upon mother’s actions, with no allegations about father who requested placement as nonoffending non-custodial parent; agency didn’t initiate ICPC or allow delay for father to pursue but placed child with other relative; Court overrules, agency should have used ICPC or other means to obtain basic information, but not full home study, cites <i>Tara S.</i>, and <i>In re Johnny S.</i>, for prior cases holding ICPC does not apply to non custodial parents)</p> | |
| CO | <p><i>In re IJO</i>, 2019 COA 151 (Colo. App. 2019) (Court reviews termination of out of state mother’s parental rights, where OH denied placement based upon home study, and CO authorities did not make reasonable efforts to rectify problems identified in home study; “Whether placement in an out-of-state, noncustodial parent’s home falls within the ICPC is an unresolved question in this state. Nationwide, courts have answered this question both ways. Compare <i>Kemper</i>, 5 A.L.R. 6th 193, § 6 (discussing cases holding that the ICPC applies to out-of-state placement with a natural parent), with <i>id.</i> § 7 (discussing cases holding that the ICPC does not apply to such placements). ¶ 12 We need not resolve that question now. Even if the ICPC applies to placement with a natural parent, it cannot be applied in such a way as to relieve the Department of its obligations to exercise reasonable efforts to reunify the family. And the juvenile court’s findings do not make sufficiently clear whether that occurred in this case.”)</p> <p><i>People v. N.G.</i>, 303 P.3d 1207 (Colo. App. 2012) (CINA petition brought against mother, father in AZ requested ICPC home study which provided positive review, but agency placed with uncle; Court holds parental presumption of fitness to father not discounted by finding as against mother, and remands for lower court to address his fitness).</p> <p><i>People ex Rel. D.P.</i>, 181 P.3d 403 (Colo. App. 2008) (Court upholds termination of natural father’s rights, stemming from original CINA proceeding against mother, and father’s failure to follow treatment plan which included amongst other requirements a ICPC home study in RI).</p> <p><i>In re People</i>, 88 P.3d 599 (Colo. 2004) (mother in Missouri places child for adoption</p> | <p>Colorado has not specifically ruled on whether the ICPC may be applied to require home studies of non custodial parents prior to placement, but it has noted the split of states on the issue, and strongly intimated that it would not on due process and equal protection grounds.</p> |

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| | with family that returns with child to Co, then subsequently withdraws consent and filings occur in both Missouri and Co, Court here addresses only jurisdictional issues from dismissal of Co action and holds Co could have continued to entertain case). | |
| CT | <p><i>In re Natalie S.</i>, 139 A.3d 824 (Conn. App. Ct. 2016) (CINA proceeding against mother, father initially unstated by mother at time of filing, hadn't seen child since she was a few months old, subsequently appeared and after confirming paternity, moved to have child placed with him out of state, agency social worker flew to NC to inspect home prior to placement, no other evidence of unfitness; mother argues trial court should have done more thorough investigation, appeals court notes where agency has already taken child into care and there is evidence rebutting a presumption of fitness of the non custodial parent, the agency has authority and responsibility to investigate whether placement is consistent with ICPC goals and policies, citing <i>Emoni</i>, but here without such evidence lower court did not err in placing without ICPC home study or otherwise imposing other custody restrictions on father).</p> <p><i>In re Emoni W.</i>, 305 Conn. 723 (Conn. 2012) (CINA proceeding against mother, out of state father had been previously engaged with children, lower court had required completion of ICPC home study before placement, and once completed children placed with him but supreme court finds issue not moot; statutory interpretation done on plain meaning as "children in the care of their own parents are not in 'foster care' in any ordinary sense of that phrase, and parents are not required to adopt their own children" 734-36; court limits holding to where parental rights have not been diminished or terminated by court order, as "when a child is under the care and supervision of the petitioner based on allegations of parental neglect, the petitioner has the authority to investigate the fitness of an out-of-state parent, to retain custody of or supervision over the child during the investigation, and to request conditions on the parent's custody, including protective supervision by the petitioner or by the analogous agency in the receiving state." 738-39.)</p> | Connecticut has directly ruled that the ICPC process of requiring receiving state approval and conduct of a home study may not be required of non custodial parents, but also reinforced that where there is any suggestion of unfitness, an agency must still investigate, and can utilize other aspects of the ICPC as well as its own authorities. |
| DC | <i>In re Petition of T.M.J.</i> , 878 A.2d 1200 (D.C. 2005) (dispute between adoptive mother and former foster mother, against natural grandmother, lower court disregarded parental preferences for placement with grandmother due in part to denial of placement following ICPC home study; parental rights of mother had been terminated, and only | The District of Columbia has not addressed the application of the ICPC to non custodial parents, although it has, in one case, held |

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| | <p>issue was application of ICPC to grandmother’s adoption petition; court addresses exemption, but notes it applies to “private arrangements for a child’s placement when those arrangements are made between a limited class of persons consisting primarily of close relatives”)</p> <p><i>In re Petition of P.S. F.E.S.</i>, 797 A.2d 1219, 1223 n.4 (D.C. 2001) (consolidated termination of parental rights and parents’ withholding of consent for adoption, court notes only in passing while remarking that neither parent understood the child’s medical needs, that a ICPC home study was completed on the birth parents’ home in New York)</p> | <p>that the ICPC’s procedures must be followed prior to adoption by a grandparent.</p> |
| DE | <p><i>Dep’t of Servs. for Children, Youth & Their Families v. B.T.B.</i>, 16-13494 (Del. Fam. Mar. 14, 2018) (court declines to address constitutional challenge, but finds pursuant to Green framework that denial of ICPC home study on mother who otherwise completes treatment plan may be disregarded as ICPC does not apply to fit parents, and completion of treatment plan restored presumption of fitness)</p> <p><i>Green v. Div. of Family Servs.</i>, 864 A.2d 921 (Del. 2004) (termination of parental rights of both parents, court also addresses ICPC and finds it applies to non-resident parents seeking custody, but limits holding to non custodial parents where there is a question as to their fitness and ability to take responsibility for a child, but “where the fitness of a non-custodial parent is not in doubt, and no continuing supervision will be necessary, the regulations authorize a court to hold the ICPC inapplicable to that parent” 928, and says the ICPC’s application to non custodial parents should be made at the outset by the family court to avoid delays)</p> | <p>Delaware has held that the ICPC may be applied to require receiving state approval through a home study of non custodial parents, but may be dispensed with where no <i>indicia</i> of unfitness exist.</p> |
| FL | <p><i>State v. M.A.</i>, 215 So. 3d 1276 (Fla. Dist. Ct. App. 2017) (court finds natural father’s failure to obtain ICPC home study report from Indiana barred placement, as the court had already acquired jurisdiction of the children through a placement with a relative, but notes there was no “constitutional challenge to the application of the ICPC to a non-offending, noncustodial parent”)</p> <p><i>D.R. v. J.R.</i>, 203 So. 3d 952 (Fla. Dist. Ct. App. 2016) (CINA petition where children removed from mother’s care, lower court initially granted agency’s motion to order a</p> | <p>Florida has consistently held that application of the ICPC to non-custodial non-resident parents is mandatory, finding exceptions only where a parent’s custody is not interrupted by any extension of jurisdiction by a court over a child’s placement. It has however allowed</p> |

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| <p>ICPC home study before placement with father, but later placed with father after dismissing dependency petition against father, and mother appealed; court rules on application of ICPC regulation 2(3)(a), but that regulation not adopted in Florida; court ultimately remands to allow trial court to determine if in children’s best interests to remain in father’s custody pending completion of ICPC process).</p> <p><i>Department of Children & Families v. C.T.</i>, 144 So.3d 684, 686 (Fla. Dist. Ct. App. 2014) (lower court “misinterprets” <i>Department of Children & Families v. L.G.</i>, 801 So.2d 1047 (Fla. 1st DCA 2001) and subsequent law, reiterating that L.G. stands for proposition ICPC “does not apply when a custodial parent, who has lawful custody of the child at all pertinent times and full authority to plan for the child, chooses to relocate to another state” but it does where a court has assumed jurisdiction over a child as “the parent’s situation is not custody or possession as a matter of parental right, but rather it is the same as the position of a foster parent.”).</p> <p><i>R.F. v. Dep’t of Children and Families</i>, 50 So.3d 1243, 1244 (Fla Dist. Ct. App. 2011) (“Even if an out-of-state placement does not strictly comply with the ICPC, a court may allow the child to remain in the out-of-state placement during the ICPC process if it is in the child’s best interest.”).</p> <p><i>C.K. v. Department</i>, 949 So. 2d 336 (Fla. Dist. Ct. App. 2007) (ICPC process mandatory for non custodial parent even where not found unfit)</p> <p><i>Dep’t of Children and Family Services v. K.N.</i>, 858 So.2d 1087 (Fla. Ct. App. 2003) (not applicable to return of child to fit, custodial parent after child had been kidnapped by noncustodial parent)</p> <p><i>H.P. v. Dep’t of Children & Families</i>, 838 So. 2d 583 (Fla. Dist. Ct. App. 2003) (court upholds mandatory application of ICPC to non-resident parents who had no previous custodial rights, and comments on purpose, without adopting, regulation 3 “By amending Regulation 3 in 2001, the Association of Administrators of ICPC (AAICPC) attempted to address the broadening of the scope of the ICPC by the courts and perhaps alleviate any constitutional concerns regarding parent’s rights. The AAICPC has</p> | <p>out of state placements pending ICPC final approval, if such is in the child’s best interests. At least one appellate court has also noted that such application to a “non-offending, noncustodial parent” has never been directly challenged on constitutional grounds.</p> |
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| | <p>slightly narrowed the coverage and constraints of the ICPC where placement of children with non-custodial, non-offending parents is concerned. Such a narrowing is consistent with the purposes of the ICPC (provide a suitable placement of children) and it appears that in the instant case the trial court’s placement of the children with their non-custodial, non-offending, out-of-state natural mother is also consistent with the ICPC and Regulation 3(6)(b). (Regulation 3(6)(b) requires that there must be evidence the parent is unfit in order to block the placement.”).</p> <p><i>State v. L.G.</i>, 801 So. 2d 1047 (Fla. Dist. Ct. App. 2001) (ICPC not applicable to interstate move of mother who already had custody of children “the ICPC requires no such notice when a Florida court has decided against foster care and adoption in favor of leaving a dependent child with her mother, and later rules that mother and child are free to move to another state.” 1048).</p> | |
| GA | <p><i>In re Interest of O. B.</i>, 787 S.E.2d 344, 346 (Ga. Ct. App. 2016) (court upholds termination of parental rights as to mother, but reverses as to father, who amongst other issues failed to respond to requests for a ICPC home study)</p> <p><i>In re R.B.</i>, 285 Ga. App. 556 (2007) (rejecting mother’s argument that a juvenile court could return the children to her in Florida without ICPC approval, as agency maintained jurisdiction through existing custody order finding children deprived and requiring mother to follow reunification plan; “The mother’s [ICPC] argument is expressly premised upon DFCS’s custody of the children having expired due to an erroneous extension of the deprivation order.” * 560).</p> <p><i>In re Adoption of D. J. F. M.</i>, 284 Ga. App. 420, 423 n. 4 (Ga. Ct. App. 2007) (“this case falls within an exception to the ICPC applicable where a child is brought into the receiving state by a relative such as a parent or aunt and is left with such relative.”).</p> | <p>Georgia has not directly ruled on whether application of the ICPC to non custodial parents is mandatory. It has upheld compliance with its its extension to parents as part of continued custody orders ensuring corrective actions where a child has been found deprived; but it has found failure to complete an ICPC home study is an insufficient basis to terminate parental rights.</p> |
| HI | <p><i>In re St.</i>, 362 P.3d 807 (Haw. Ct. App. 2015) (mother and father appeal termination of parental rights, and allowance by trial court of child’s foster parents to relocate out of state with child without complying with the ICPC, found to be harmless error).</p> | <p>Hawaii does not appear to have addressed the ICPC’s application to non custodial parents. In one of the few cases addressing the ICPC, an appellate court found a foster</p> |

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| | | family's failure to comply with the ICPC prior to relocating with a child, was harmless error. |
| ID | | Idaho does not appear to have addressed the application of the ICPC to non custodial parents. |
| IL | <i>In re Marriage of State</i> , 181 Ill. App. 3d 110 (Ill. App. Ct. 1989) (jurisdictional case, mother obtained divorce and sought custody determination in Illinois, but Washington court had previously appointed a guardian for the children, an aunt that lived in Illinois. Lower court had ruled Washington maintained jurisdiction under ICPC; appeals court ruled children's best interests and best availability of evidence should have led trial court to assume jurisdiction under UCCJA provisions, and only notes the purpose of the ICPC is to facilitate states' cooperation in placements.) | Illinois does not appear to have addressed the application of the ICPC to non custodial parents. |
| IN | <p><i>In re M.W.</i>, 130 N.E.3d 114 (Ind. App. 2019) (court dismisses as moot trial court's holding the ICPC must be complied with for a non custodial parent as home study completed, but reiterates long-standing law; "This Court has made clear that the ICPC does not apply to placement with an out-of-state parent. <i>In re B.L.P.</i>, 91 N.E.3d 625, 630 (Ind. Ct. App. 2018) ("we hold as plainly and unambiguously as possible: unless and until the statute is amended, the ICPC does not apply to placement with an out-of-state parent."); see also <i>In re D.B.</i>, 43 N.E.3d 599, 604 (Ind. Ct. App. 2015), trans. denied. Here, Magistrate Ferguson said, "The Court is well aware of the Appellate Court's position on an ICPC and respectfully disagrees with their position." Tr. p. 25.").</p> <p><i>In re B.L.P.</i>, 91 N.E.3d 625 (Ind. App. 2018) (court notes frustration with agency and trial courts despite its ruling in 2015 that the ICPC does not apply; "Notwithstanding this unambiguous holding, apparently DCS is still requesting—and trial courts are still granting—ICPC evaluations for out-of-state parents.").</p> <p><i>D.B. v. Ind. Dep't of Child Servs.</i>, 43 N.E.3d 599 (Ind. Ct. App. 2015) (ICPC does not apply to non custodial parents, based upon plain language).</p> | Indiana has directly ruled that the ICPC process of requiring receiving state approval and conduct of a home study may not be required of non custodial parents. |
| IA | <i>In re C.K.</i> , No. 18-1784 (Iowa Ct. App. Feb. 20, 2019) (termination of father's parental | Iowa does not appear to have |

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| | <p>rights upheld, not for failure to complete the ICPC process but “both the finding that the child could not be placed in his care and the non-completion of the ICPC process were direct results of the father’s “fail[ure] to provide appropriate housing for this child.” ” * 4)</p> <p><i>In re V.C.</i>, 881 N.W.2d 471 (Iowa Ct. App. 2016)</p> | <p>directly ruled on whether the ICPC process must be complied with for non custodial parents. Several appellate court rulings however have noted in various contexts lower courts’ ordering of home studies of non custodial parents, without comment.</p> |
| KS | <p><i>In re S.r.c.-Q.</i>, 52 Kan. App. 2d 454 (Kan. Ct. App. 2016) (court upholds placement of child with mother without ICPC approval and holds ICPC does not apply to placements with parents; “while the terms of the ICPC as enacted in Kansas explicitly apply to out-of-state placements of children with foster parents or as a precursor to adoption, it does not explicitly apply to out-of-state placements of children with a parent.” 460).</p> | <p>Kansas has ruled that the ICPC does not apply to non custodial parents.</p> |
| KY | <p><i>Meinders v. Middleton</i>, 572 S.W.3d 52 (Ky. 2019) (CINA finding against mother resulted in temporary custody to other relatives, real father at the time unknown; once real father identified lower court ordered home study under ICPC, but it never occurred and lower court re-issued custody to relative; appeals overturned, noting a trial court should never order a home study under these circumstances. The statute for ICPC, KRS 615.030, clearly states that it “shall not apply to: (a) The sending or bringing of a child into a receiving state by his parent[.]” This is because the statute requires that the state have custody of the child before it applies to any sending or receiving of the child to another state. Here, the state has never had custody of CJS. This is why the study never happened and why the trial court lacked authority to order the study.” 59; court also reiterates fundamental constitutional rights of parents).</p> <p><i>H.M.R. v. Cabinet for Health & Family Servs.</i>, 521 S.W.3d 221, 227 (Ky. Ct. App. 2017) (termination of father’s parental rights and placement of children for adoption overturned; “Father twice requested to set up a case plan and the Cabinet twice failed to give him one to work. When the ICPC assessment was returned, denying placement of Child with Father, the Cabinet did not attempt to contact Father to work any sort of plan. The fact that Father’s home and situation was not appropriate for temporary placement is not tantamount to a finding that Father would never be able to adequately</p> | <p>Kentucky does not appear to have directly ruled on whether the ICPC must be applied to non custodial parents. Although some appellate opinions mention in dicta without comment a lower court’s ordering of a home study for non custodial parents, on other occasions courts have specifically ruled home studies should not be required where a state never gains custody of a child; and denial of ICPC placements with non custodial parents insufficient to terminate parental rights and place child for adoption.</p> |

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| | parent Child. While there are certainly valid concerns as to whether Father can be a proper parent to Child, we cannot agree that Father’s action in this case demonstrates that he intended to abandon child and was unwilling to work with the Cabinet toward reunification.”) | |
| LA | <i>State v. Hawkinberry</i> , 953 So. 2d 870, 875-76 (La. Ct. App. 2007) (termination appeal, brief mention of ICPC’s exemption but not on wider application to non custodial parents; Article VIII exemption not available as agency had custody of child and placed) | Louisiana does not appear to have directly ruled on the mandatory application of the ICPC to non custodial parents based upon its Article III scope covering placements. At least one court however has responded to a challenge regarding the Article VIII exemption for parents and close relatives transporting children to another state, noting that the exemption does not apply when an agency sends a child for placement. |
| MA | <p><i>In re Adoption of Ulyssa</i>, 75 N.E.3d 1148 (Mass. App. Ct. 2017) (court upholds termination of father’s parental rights and notes ICPC denial precludes placement).</p> <p><i>Adoption of Leland</i>, 65 Mass. App. Ct. 580 (Mass. App. Ct. 2006) (court overturns termination of parental rights and denial of placement with father, despite negative ICPC home study, noting its reasons of ‘too many people living in the home’ is insufficient; remands to reinstate visitation and reevaluate termination of reunification).</p> <p><i>Adoption of Willow</i>, 433 Mass. 636 (Mass. 2001) (court upholds termination of parental rights and dispensing with consent for adoption against both parents, where primary allegations brought against mother but father was denied placement through ICPC from home study; court reinforces children may not be placed absent finding from receiving state, based upon home study, including with parents)</p> <p><i>Adoption of Warren</i>, 693 N.E.2d 1021 (Mass. Ct. App. 1998) (father’s appeal of grant</p> | Massachusetts has consistently held that the ICPC and supporting regulations apply to placements with non custodial parents. One appellate court however has expressed due process related concerns over a ICPC denial of placement, and ordered renewed visitation and exploration of reunification despite the denial. |

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| | <p>of custody to agency preliminary to adoption based in part on denial of ICPC home study; father’s primary challenge is that parental and close relative exemption applied; court upholds, finding exemption doesn’t apply when agency has custody, further supports regulations clarifying).</p> <p><i>Custody of Quincy</i>, 562 N.E.2d 94 (Mass. Ct. App. 1990) (father appeals denial of effort to vacate dismissal of CINA case which had awarded him custody of son; ICPC process not invoked as he lived out of state at time, and so follow on care could not be provided by Mass.; court dismisses as moot but notes in dicta that children subject to ongoing care and protection placed out of state should be done through the ICPC to ensure follow on services and treatment may continue).</p> | |
| ME | <p><i>In re Natasha</i>, 943 A.2d 602 (Me. 2008) (adoptive mother appeals termination of parental rights based upon use and admission of ICPC report containing denial and negative information; Court notes ICPC reports’ admissibility and use limited to purposes of home study, which do not apply to parental placements, and therefore prejudicial here, and remands for consideration of record without home study; “Based on their conclusions from the home study report, the Massachusetts Department of Social Services did not recommend placement of Natasha with Janice in Massachusetts. The ICPC, on its face, only applies to the interstate placement of children in foster care or possible adoption homes, and does not expressly cover "placement" of children with their parent. 22 M.R.S. § 4007(4)(2006). This section was amended in 2007. See P.L. 2007, ch. 255, § 4 (effective September 20, 2007). None of the amended language is relevant to the instant case or changes our analysis.” 605 n. 2)</p> <p><i>In re Higer N</i>, 2 A.3d 265 (Me. 2010) (court upholds termination of father’s parental rights, noting in passing that two home studies were completed tardily under the ICPC in response to father’s suggestion the agency wasn’t working in good faith on reunification).</p> | <p>Maine does not appear to have directly ruled on whether the ICPC may be applied to non custodial parents. At least one appellate court has however commented that it does not apply to placements of children with their parents, in the context of reversing a lower court’s reliance on a conducted home study to terminate parental rights. At least one other appellate court has subsequently not remarked upon a home study conducted on a parent, who had challenged the agency’s timeliness and diligence in working towards reunification.</p> |
| MD | <p><i>In re R.S.</i>, 242 Md.App. 338 (Md. App. 2019) (appellate court holds ICPC may not be applied to noncustodial parents based upon plain language reading of Article III’s scope and inapplicability of Regulation 3)</p> | <p>Maryland’s intermediate appellate court has held the ICPC does not apply to noncustodial parents (plain language of scope and</p> |

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| | <p><i>In re W.Y.</i>, 228 Md.App. 596 (Md. App. 2016) (review of ICPC application to delinquency placements, reviewed plain language of § 5-607, but did so <i>strictly</i> because of its reflection of due process requirements).</p> <p><i>In re Adoption of Cadence B.</i>, 417 Md. 146 (Md. 2010) (court reviews termination of father’s parental rights, responding in fn father’s abbreviated challenge to ICPC based upon Article VIII (§5-609) does not apply where a state has taken custody and would be placing the child)</p> <p><i>In re Sophie S.</i>, 167 Md. App. 91 (Md. Ct. Spec. App. 2006) (review of dismissal of CINA and award of custody to fit father, ICPC implicated as agency had done courtesy check but suggested keeping jurisdiction in CINA continuance against mother would require full ICPC home study on father)</p> <p><i>In re Adoption/Guardianship No. 3598</i>, 347 Md. 295 (Md. 1997). (ICPC not followed for adoption, court rejects challenge by father holding New York law didn’t require his consent, and electing not to set aside adoption for noncompliance)</p> <p><i>In re Adoption No. 10087</i>, 324 Md. 394 (Md. 1991) (ICPC not complied with in adoption, court refuses to set aside from intent of ICPC to facilitate adoptions, noncompliance relatively minimal warranting retroactive compliance, and ICPC doesn’t supplant state need to determine best interests of child)</p> | <p>inapplicability of Regulation 3); Court of Appeals has granted petition for certiorari to review.</p> |
| MI | <p><i>In re Quick</i>, No. 346791 (Mich. Ct. App. Jul. 23, 2019) (unpublished; court upholds termination of parental rights against out of state mother who challenged that child could have been placed in foster care in NY pursuant to ICPC, but was placed instead in Michigan).</p> <p><i>In re S S White</i>, No. 331325 (Mich. Ct. App. Oct. 13, 2016) (unpublished; court upholds termination of parental rights against mother, who had requested ICPC post-placement assistance; court notes ICPC didn’t apply as child was born in Michigan, if it applied only service would be home assessment, which would not have been required or helpful as mother didn’t comply with any other efforts towards reunification)</p> | <p>Michigan does not appear to have definitively addressed the ICPC’s mandatory application to non custodial parents. In a series of unpublished cases however, appellate courts have consistently noted in various contexts that the plain language of the ICPC limits its pre-placement scope to foster or adoption, and doesn’t extend to non custodial parents, although those</p> |

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| | <p><i>In re McCarthy</i>, No. 318855 (Mich. Ct. App. Sep. 23, 2014) (unpublished; court remands for further development of grounds for termination of parental rights; notes in passing ICPC “plainly limits the scope to foster care and preadoption placements,” but it wasn’t “plain error” under circumstances for trial court to order one after prior termination of parental rights as court had “legitimate concerns of her parental fitness”).</p> <p><i>In re A.X.W.</i>, Docket No. 299622 2011 Mich. App. LEXIS 983 (Mi. Ct. App. 2011) (unpublished; appeal of termination of parental rights; court overturns termination in part as it relied upon results of ICPC home study, which court found should not have been admissible as unreliable hearsay, and further notes ICPC only applies to foster care and preadoption placements, citing <i>McComb & In re Dependency of DF-M</i>)</p> | <p>same courts have expressed support for proceeding with home studies in termination proceedings where there are other concerns about unfitness. At least one appellate court has also in an unpublished opinion found that the results of an ICPC home study are not admissible in a parental termination case, pointing to due process and hearsay concerns.</p> |
| MN | <p><i>In re S.J.Z.M.</i>, A17-0881 (Minn. Ct. App. Dec. 11, 2017) (unpublished; court upholds post-foster care placement of CINA child back with mother following reunification plan, which included successful approval of ICPC home study).</p> <p><i>In re Welfare of Child of L.L.E.</i>, A16-1174 (Minn. Ct. App. Dec. 27, 2016) (unpublished; court affirms termination of parental rights against mother, based in part on denial of ICPC home study and inability to place for reunification in absence of ICPC approval unless court dismissed petition for CINA and termination).</p> <p><i>In re Welfare of Children of L.T.P.</i>, A16-0532 (Minn. Ct. App. Oct. 24, 2016) (unpublished; court upholds termination of parental rights against father, noting in passing ICPC denial of placement, but finding other evidence of non compliance with reunification efforts).</p> <p><i>In re S.G.</i>, 828 N.W.2d 118 (Minn. 2013) (court upholds adoption by foster parents over competing petition by grandparents; ICPC request for grandparents initially withdrawn by agency due to lack of cooperation and progress but subsequently approved; court ultimately supports foster parents under best interests analysis without further referral to the ICPC home study).</p> <p><i>In Matter of R.J.H.</i>, A09-499 (Minn. Ct. App. Nov 3, 2009) (unpublished; court</p> | <p>Minnesota does not appear to have directly ruled on the ICPC’s mandatory application to non custodial parents. However, in several unpublished cases, appellate courts have not remarked upon requirements for non custodial parents to complete ICPC home studies, primarily in parental termination and reunification plan contexts, where denials of placements have been noted but supported by other evidence of unfitness or non compliance with reunification. It has also addressed the impact of ICPC violations on adoptions, and at least on one occasion refused to vacate an adoption decree on the basis of a violation.</p> |

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| | <p>upholds termination of father’s parental rights, notes in passing denial of ICPC placement from home study, but finds other evidence supporting termination).</p> <p><i>In Matter of the Child of C.S.</i>, A07-1845 (Minn. Ct. App. May 20, 2008) (unpublished; court upholds termination of parental rights against mother, courts notes in passing denial of two home studies conducted pursuant to ICPC, but finds other evidence supporting termination).</p> <p><i>In re C.M.A.</i>, 557 N.W.2d 353, 357 (Minn. Ct. App. 1996) (court largely upholds adoption placement done in violation of the ICPC as against father’s subsequent challenge; court notes that parental exemption doesn’t apply to private placements for adoption, but declines to void adoption).</p> | |
| MO | <p><i>E.P. v. J.G.</i>, 545 S.W.3d 898 (Mo. Ct. App. 2018) (court upholds termination of father’s parental rights, noting in passing ordering of ICPC home study and eventual approval, but focusing on other evidence to uphold termination).</p> <p><i>Mo. Dep’t of Soc. Servs. v. B.T.W.</i>, 422 S.W.3d 381 (Mo. Ct. App. 2014) (court upholds termination of father’s parental rights, noting father’s failure of 3 ICPC home studies, but focusing on other evidence to uphold termination).</p> <p><i>J.L.B. v. J.L.</i>, 280 S.W.3d 147 (Mo. Ct. App. 2009) (court denies challenge by parents to Missouri relinquishing jurisdiction to Utah where court-appointed guardian had received prior permission from Missouri court to relocate, and ICPC not followed; court found ICPC not applicable owing to exemption for parents, close relatives & guardians sending over state lines).</p> <p><i>In re T.N.H.</i>, 70 S.W.3d 2 (Mo. App. 2002) (mother’s interlocutory appeal of denial of challenge to place daughter in protective custody; court refutes mother’s claim that after final determination of custody made for child, ICPC would not need to be followed for placement again with her in Virginia, as agency would be sending, not mother)</p> <p><i>In re Baby Girl</i>, 850 S.W.2d 64 (Mo. 1993) (ICPC applies to private placements for</p> | <p>Missouri does not appear to have directly ruled on the scope of the ICPC’s application to non custodial parents under Article III, but has noted that the parental/guardian exemption of Article VIII doesn’t apply where an agency assumes custody or jurisdiction over a child and sends a child for placement. Moreover, at least one appellate court has noted without elaboration the ordering of ICPC home studies of non custodial parents in the context of termination cases.</p> |

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| MS | <p><i>Hartley v. Watts</i>, 255 So. 3d 114 (Miss. 2017) (court upholds termination of parental rights against father who had requested ICPC home study, not conducted as agency had other evidence of unfitness including convictions as a sex offender)</p> <p><i>Oktibbeha Co. Dep. of Human Serv. v. N.G.</i>, 782 So. 2d 1226 (Miss. 2001) (interlocutory challenge by natural parents to agency placing child out of state through ICPC while they were incarcerated, court upholds continuing jurisdiction of Mississippi to force children to be returned, including intervening in North Carolina lawsuit to have child returned to terminate custody)</p> <p><i>K.D.G.L.B.P. v. Hinds County Dep't of Human Servs.</i>, 771 So. 2d 907 (Miss. 2000) (mother's challenge to termination of parental rights denied on other grounds, but court notes in dicta agency prohibited from placing child with mother under ICPC without approval from receiving state, which had denied placement)</p> | Mississippi does not appear to have directly addressed the ICPC's mandatory application to non custodial parents. Several courts however have noted such an application without further remarks, primarily in termination of parental rights' contexts. |
| MT | <p><i>In re B.H.</i>, 2020 MT 4 (Mont. 2020) (ineffective assistance of counsel and reversal of termination of father's parental rights like EYR; CINA removal of children from mother with no allegations of abuse or neglect from out of state father who had recent and sustained contact as primary care giver but mother removed from his care in ND, left to MT, and then had children removed through CINA; children initially placed with maternal grandparents rather than father; agency stated it would pursue ICPC before any initial investigation or developing a treatment plan for father; ICPC process goes on for 9 months, then has to be re-started; 19 months later agency advises ICPC closed and it would seek to terminate parental rights and place with grandparents)</p> <p><i>In re E.Y.R.</i>, 396 Mont. 515 (Mont. 2019) (father appeals termination of parental rights, court reverses to conduct "initial preliminary assessment" as first option for placement; no initial allegations of abuse against father when children removed from mother; father's counsel (ineffective) didn't object to initial placement with grandparents or suggest ICPC wasn't needed; agency delayed even initiating an ICPC on father, found by California judge in related custody matter, who communicated with Mt judge; judges coordinate via UCCJEA; ICPC process didn't initiate for at least 8 months, and then</p> | In assuming without deciding that the ICPC may be applied to non custodial parents under some circumstances, Montana has sharply limited those circumstances to only where sufficient evidence exists warranting further investigation, but held it may not be applied where no initial evidence exists reflecting unfitness. |

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| | <p>agency claimed California refused to conduct one on father as non custodial parent without being on a treatment plan; after extensive delays agency recommends termination for mother but long term placement with grandparents; agency hadn't even done criminal background check on father until over a year after having children in custody and recommending placement with grandparents; court describes continuum which does not call for ICPC application at onset, but only if needed)</p> <p><i>In re A.J.C.</i>, 393 Mont. 9 (Mont. 2018) (agency didn't place child with father even after completion of ICPC home study and approval of placement by receiving state "asserting it wanted additional time to obtain more information"; grandmother given custody, father appeals; court reverses finding constitutional violation by placing with grandmother after father completed court-ordered treatment plan).</p> <p><i>In re J.H.</i>, 382 Mont. 214 (2016) (holding the ICPC applies where the local department has temporary custody and noncustodial parent seeks custody, noting denial by a receiving state precluded placement and Montana court couldn't dismiss as it had evidence father was potentially unfit, including criminal history).</p> <p><i>In re M.J.C.</i>, 324 P.3d 1198 (Mont. 2014) (court upholds termination of both parental rights on sufficient evidence, recounting in facts father's treatment plan included obtaining an ICPC home study, which was denied but not cited as a factor by court in review of other evidence).</p> <p><i>In Matter of R.M.T.</i>, 256 P.3d 935 (Mont. 2011) (court upholds termination of father's parental rights, recounting in facts agency had requested an ICPC home study of father to evaluate placement and placement denied).</p> <p><i>In re J.A.S.</i>, 190 P.3d 299 (Mont. 2008) (after children initially taken into emergency protective custody and both parents entered care plans, father appeals later placement of children with out of state mother while ICPC home study was still being conducted; court dismisses as moot as eventually completed and other custody hearings removed dispute).</p> | |
| NC | <i>In re J.D.M.-J.</i> , 817 S.E.2d 755 (N.C. Ct. App. 2018) (court reverses placement of child | North Carolina has directly held |

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| <p>with aunt and uncle done without compliance with ICPC; court rejects that scope of placement for foster care or preliminary to possible adoption doesn't include family placements, supported by Regulation 3 and definitions of foster care and "family free" home; court notes split though on relative placements, "Although J.E. predates V.A. , this Court in V.A. expressly relied on our earlier decision in <i>In re L.L.</i> , 172 N.C. App. 689, 616 S.E.2d 392 (2005), that "a child cannot be placed with an out-of-state relative until favorable completion of an ICPC home study." <i>Id.</i> at 702, 616 S.E.2d at 400. Because L.L. was decided before J.E. , we conclude that we are bound by the L.L. / V.A. line of cases.")</p> <p><i>In re S.W.</i>, 812 S.E.2d 915 (N.C. Ct. App. 2018) (court reverses termination of father's parental rights, noting in passing lower court had ordered a ICPC home study of father's residence in NY, which was denied; termination ultimately reversed as lower court didn't make sufficient evidentiary findings on willfulness)</p> <p><i>In re M.B.</i>, 800 S.E.2d 757 (N.C. Ct. App. 2017) (court upholds order appointing paternal grandmother guardian for child over mother's objections after agency removed child from her care; grandmother lived in Ohio and no ICPC home study accomplished; issue moot as she relocated to North Carolina).</p> <p><i>In re N.K.M.</i>, 772 S.E.2d 264 (N.C. Ct. App. 2015) (court upholds termination of out of state father's parental rights, noting <i>inter alia</i> his failure to cooperate with or obtain ICPC approval).</p> <p><i>In the Matter of V.A.</i>, 727 N.E.2d 901 (NC 2012) (court reverses placement of child with out of state maternal great grandmother absent ICPC approval where placement denied by South Carolina, endorsing Regulation 3 and extension of foster care to include "family free" home)</p> <p><i>In the Matter of J.E.</i>, 643 S.E.2d 70 (N.C. Ct. App. 2007) (placement with out of state maternal grandparents as guardians not considered placement requiring ICPC process as per plain language of ICPC, citing <i>Rholetter</i>, court notes <i>Rholetter</i> applied to mother but extends here to other family members)</p> | <p>that the ICPC need not be applied prior to placement with out of state non custodial parents, based upon the plain limitations of the Article III scope of placements being limited to foster care and preliminary to adoption. Subsequent appellate courts however have found the ICPC must be applied to other family placements, and noted without comment its application to non custodial parents in contexts of termination of parental rights, where the issue was not challenged.</p> |
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| | <p><i>In re Rholetter</i>, 592 SE.2d 237 (N.C. Ct. App. 2004) (court upholds placement with out of state mother following denial of ICPC home study; children removed from father following abuse of father’s wife to children; no allegations against natural mother; court finds scope of ICPC limited to foster care or preliminary to possible adoption, plainly limited to not include parents; home study completed anyway after order or lower court which denied placement and court notes lower court not obligated to follow recommendation).</p> | |
| NE | <p><i>State v. Erica J.</i>, 870 N.W.2d 413 (Neb. 2015) (noting in passing application to relatives)</p> <p><i>Ashby v. State</i>, 779 N.W.2d 343 (Neb. 2010) (examined in construction of private adoption for evaluating tort duty)</p> <p><i>Interest of Eric O.</i>, 617 N.W.2d 824 (Neb.Ct.App. 2000) (father challenges approval for guardians to relocate with children to Texas where he had not been determined unfit; court finds article VIII relative exception applies as guardian was bringing, not court placing) (overruled on other grounds)</p> | Nebraska does not appear to have directly ruled on the ICPC’s application to non custodial parents. |
| ND | <p><i>In re T.H.</i>, 825 N.W.2d 844 (N.D. 2012) (court reverses interlocutory extension of child placement with agency as moot, noting subsequent trial home visit with out of state mother, and commenting in passing application of ICPC to mother in South Dakota pursuant to permanency plan)</p> | North Dakota does not appear to have directly ruled on the application of the ICPC to non custodial parents. At least one appellate court however has noted its application pursuant to a permanency placement plan with a non custodial parent, without further comment. |
| NH | <p><i>In re Alexis O</i>, 157 N.H. 781 (N.H. 2008) (child removed from father’s care, no allegations of abuse against out of state mother; agency refuses to immediately place with mother despite her offer to come to NH to retrieve, and instead asserted ICPC applied to prevent her from obtaining immediate custody; ICPC conducted and approved; court notes other jurisdictional splits; plain language of scope limits to foster</p> | New Hampshire has directly ruled that the ICPC may not be applied to non custodial parents. |

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| | or preliminary to adoption; ICPC legislative history; Regulation 3 conflicts with plain language by expansion). | |
| NJ | <p><i>In re J.W.</i>, DOCKET NO. A-4988-15T4 (N.J. Super. Mar. 19, 2018) (unpublished)</p> <p><i>N.J. Div. of Child Prot. & Permanency v. R.B.</i>, DOCKET NO. A-2762-12T3 (N.J. Super. Jun. 26, 2015) (unpublished)</p> <p><i>N.J. Div. of Youth & Family Servs. v. K.F.</i>, 803 A.2d 721 (N.J. Super. Ct. App. Div. 2002) (agency appeal of order requiring agency to place child with out of state maternal grandparents without ICPC approval; court upholds finding ICPC does not apply to relative placements)</p> | Although it does not appear to have directly addressed the ICPC’s application to non custodial parents, New Jersey has directly held that the ICPC does not apply to relative placements more generally, citing both legislative intent limiting the scope of the ICPC, as well as the reasoning behind <i>McComb</i> and several states that have rejected its application to non custodial parents. |
| NM | <p><i>State ex rel. Children, Youth & Families Dep’t v. Amy B. (In re Logan K.)</i>, No. A-1-CA-38463 (N.M. Ct. App. Jan. 9, 2020) (court rejects mother’s challenge of termination of parental rights, noting in passing agency had made efforts towards reconciliation which included submitting an ICPC application with Texas “in order to enable Texas protective services to assist Mother with her treatment plan, but this application was denied” at *3)</p> <p><i>State ex rel. Children, Youth & Families Dep’t v. Jerry K.</i>, 347 P.3d 724 (N.M. Ct. App. 2015) (court upholds termination of father’s parental rights where he was sentenced to 35 years in prison, but reversing for failure to place children consistent with father’s recommendation of close friends who had known children, noting in passing the friends’ approval of ICPC home study for placement which agency both ignored and failed to provide to father).</p> <p><i>In re Mary L.</i>, 778 P.2d 449 (N.M. Ct. App. 1989) (court reverses adjudication of neglect against mother and placement of children with agency; children originally removed when in father’s custody while mother lived in Texas; agency insisted upon a favorable home study prior to placement; Texas denied placement, NM required corrective plan for deficiencies in report, agency filed abuse against her for failure to</p> | New Mexico has directly held that the ICPC should not be applied to a noncustodial parent that is fit, and the state does not take proper custody of a child as it should place with the fit parent. Subsequent cases have noted without ruling on the issue that the ICPC was applied pursuant to rehabilitation plans) |

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| | comply with corrective plan; court holds that agency did not properly have custody and placement with mother not a foster placement and therefore ICPC should not have applied) | |
| NV | <i>In the Matter of Parental Rights as to A.G.</i> , 129 Nev. Adv. Op. 13, 295 P.3d 589 (2013) | Nevada courts does not appear to have addressed the ICPC's application to non custodial parents. |
| NY | <p><i>In re Emmanuel B.</i>, 175 A.D.3d 49 (N.Y. App. Div. 2019) (ICPC does not apply to non custodial parents; children removed from mother's care, father in NJ filed for custody which was denied owing to ICPC and no other concerns about father; NJ subsequently approved placement (three months after submission of paperwork), but court finds not moot, noting split, examines legislative history and plain meaning, history of regulation 3, notes Second Department has held otherwise " this line of cases relies on a fundamental misreading of the Court of Appeals decision in Matter of Shaida W., 85 N.Y.2d 453, 626 N.Y.S.2d 35, 649 N.E.2d 1179 (1995), where the Court applied the ICPC to a kinship foster care placement" * 58)</p> <p><i>Solai J. v. Kadesha J.</i>, 2019 N.Y. Slip Op. 29093 (N.Y. Fam. Ct. 2019) (family court agrees ICPC does not apply to noncustodial parents, based upon plain meaning of Article III's scope and definition of foster care, "If the child welfare authorities in the initial state never assume legal care and custody of the child, if the child has not been placed in foster care, but, rather, released to a parent, the ICPC does not apply. ")</p> <p><i>Admin. for Children's Servs. v. Sadetiana J. (In re Angel S.)</i>, 173 A.D.3d 1188 (N.Y. App. Div. 2019) (mother interlocutory appeals from denial of release of her child from agency custody, dismissed as academic, based upon earlier neglect proceedings against mother and father where petition was dismissed against mother and she moved for immediate release; agency insisted on application of ICPC, home study was conducted and approved by North Carolina and child released – hence mootness)</p> <p><i>Dan N. v. Schenectady Cnty. Dep't of Soc. Servs.</i>, 58 N.Y.S.3d 701 (N.Y. App. Div. 2017) (ICPC applies to placement with grandparents in North Carolina)</p> | There is a split of opinion amongst New York appellate courts on whether the ICPC applies to non custodial parents. In a more recent 2019 decision, the Supreme Court, Appellate Division, First Department has ruled that it does not apply, while the Second Department has much earlier held directly that it does. |

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| | <p><i>Jadaquis B. v. Comm’r of the Admin. for Children’s Servs.</i>, 38 Misc. 3d 1212 (N.Y. Fam. Ct. 2012) (family court places child with father despite denials of multiple ICPC home studies of different residences; “This court fails to see how ACS’s plan to keep this 14 year old teenager in stranger foster care, in his fifth non-kinship foster home, until some unspecified time in the future, serves this child’s best interests when he has a father, a non-respondent in this case, who can provide him with a safe, loving, and nurturing home.” * 6)</p> <p><i>In re Alexis Mv. Jenelle F.</i>, 91 A.D.3d 648, 650 (N.Y. App. Div. 2012) (“Where the custody of a child who is under the supervision of the Commissioner is transferred to the custody of a parent or relative in another state, the provisions of the ICPC apply”)</p> <p><i>In re Louis N.</i>, 952 N.Y.S.2d 1 (N.Y. App. Div. 2012) (“We would further find that compliance with the Interstate Compact on the Placement of Children (ICPC) was not required because the award of custody to the out-of-state grandmother was made under article 6 of the Family Court Act [...], to which the ICPC does not apply.”)</p> <p><i>Admin. for Children’s Servs. v. Jenelle F. (In re Alexis M.)</i>, 91 A.D.3d 648, 650-51 (N.Y. App. Div. 2012) (“Where the custody of a child who is under the supervision of the Commissioner is transferred to the custody of a parent or relative in another state, the provisions of the ICPC apply”).</p> <p><i>In re Tumari.</i>, 65 A.D.3d 1357 (N.Y. App. Div. 2009) (ICPC had to be applied to non custodial father who resided in New York but indicated he was relocating out of state, where no information was available about his fitness, but noting 2009 legislative amendments that authorize family courts to grant nonrespondent parents custody, concluding jurisdiction; dissent notes father would be sending agency, not agency, and so ICPC would not apply, and in any event limitation of scope to foster or preliminary to adoption exceeded)</p> | |
| OH | <p><i>In re T.K.M.</i>, 2019 Ohio 5076 (Ohio Ct. App. 2019) (ICPC applies and precludes placement with noncustodial parents absent receiving state approval)</p> <p><i>In re W.W.E. W.E.</i>, 67 N.E.3d 159, 182 (Ohio Ct. App. 2016) (finding admission of</p> | Ohio, in one appellate court’s opinion, has directly ruled that the ICPC applies and precludes placement with noncustodial |

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| | ICPC report and denial of placement harmless where it was supplemented by other evidence, affirming trial court's permanent grant of custody of child for adoption over father's objection). | parents absent receiving state approval. |
| OK | <i>In re Adoption of G.F.E.G.</i> , 246 P.3d 1115, 1120 (Okla. Civ. App. 2010) (court reverses placement of child with foster parents over out of state grandparents' objections, where suggested agency delayed processing ICPC home study request, which had not been completed by the time of the other placement; "the trial court erred when it dismissed Grandparents' adoption petition based on the best interests of the child, without providing Grandparents an opportunity to be heard on the best interests issue."). | Oklahoma does not appear to have directly ruled on the application of the ICPC to non custodial parents. |
| OR | <p><i>Dep't of Human Servs. v. A. B. (In re Southern)</i>, 401 P.3d 279 (Or. Ct. App. 2017) (ICPC process mandatory for placement with grandfather out of state)</p> <p><i>In re Z.E.W.</i>, 368 P.3d 64, 281 Or. App. 394 (Or. Ct. App. 2016) (court overturns lower court's continued exercise of jurisdiction over children, following original removal from mother's care with no allegations against out of state father; father moved to dismiss, agency insisted on ICPC approval from Arizona which later denied placement; court notes denial of a placement under ICPC to father does not itself provide continuing jurisdiction)</p> <p><i>In re A.S.</i>, 323 P.3d 484 (Or. Ct. App. 2014) (father appeals denial of motion to dismiss court's continued jurisdiction over his child, court reverses finding insufficient basis to continue jurisdiction; child originally removed from mother's care, father resided in Washington; agency had required father to complete an ICPC home study, with placement being denied twice without completion of study; agency cannot demonstrate facts showing danger to the child, so ordered to release to father despite lack of ICPC placement)</p> <p><i>In re D.D.</i>, 298 P.3d 653, 658 (Or. Ct. App. 2013) (court reversing lower court's finding agency undertook reasonable efforts at reunification with out of state father where agency requested ICPC but provided no further services and failed to follow up on status of home study for over 7 months, which was never conducted)</p> | Oregon does not appear to have directly ruled on whether the ICPC may be applied to non custodial parents. One appellate court almost twenty years ago suggested in <i>dicta</i> that it would, although the same court on two other occasions within the past six years have found that denial of ICPC placements to non custodial parents may not justify continued exercise of jurisdiction over children where no allegations of unfitness are made against those parents. |

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| | <i>State Juvenile Dep't of Clackamas County v. Smith</i> , 811 P.2d 145 (Ore. Ct. App. 1991) (reversing trial court's placement of child with natural mother upon child's challenge as child had been left with grandparents and lower court ordered placement without continuing jurisdiction over agency's placement recommendation of grandparents; court notes in dicta placement would have been subject to the ICPC as she resided in Washington). | |
| PA | <p><i>In re R.E.M.</i>, J-A24021-18 (Pa. Super. Ct. Dec. 7, 2018) (non precedential)</p> <p><i>In re B.N.E.</i>, J-S04004-18 (Pa. Super. Ct. Mar. 23, 2018) (non precedential)</p> <p><i>In re E.C.</i>, J-A32001-17 (Pa. Super. Ct. Feb. 8, 2018) (non precedential) (placement with out of state father without evidence of unfitness ended state's custody and Article III did not apply)</p> <p><i>In re P.Z.</i>, 113 A.3d 840 (Pa. Super. Ct. 2015) (court upholds termination of father's parental rights, noting in passing Arizona's denial of placement through the ICPC).</p> | Pennsylvania does not appear to have directly ruled on the application of the ICPC to non custodial parents, and few published cases even address the practice. |
| RI | <i>In re Paula G.</i> , 672 A.2d 872 (R.I. 1996) (reversing order placing children with out of state unlicensed foster care provider where trial court failed to comply with the ICPC) | Rhode Island does not appear to have directly ruled on the application of the ICPC to non custodial parents, although it has upheld its mandatory application to placements with foster care providers co-habiting with other relatives. |
| SC | <p><i>Hirschi v. Father</i>, Appellate Case No. 2018-001021 (S.C. Ct. App. Oct. 1, 2019) (non precedential)</p> <p><i>S.C. Dep't of Soc. Servs. v. Williams</i>, 772 S.E.2d 279 (S.C. Ct. App. 2015) (court reverses termination of parental rights where original allegations of abuse were against mother, father in North Carolina originally sought ICPC home study; court finds evidence supporting termination of mother's rights but finds in child's best interests to pursue reunification with father and not terminate all rights, remanding for permanency</p> | South Carolina has not directly ruled on the application of the ICPC to non custodial parents, but at least one appellate opinion has reviewed such an application in dicta within the context of a termination of parental rights case. |

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| | planning exploring father reapplying for ICPC). | |
| SD | <i>People ex rel. P.S.E.</i> , 816 N.W.2d 110, 119 (S.D. 2012) (“The California homestudy was requested and completed because the ICPC prohibits placement outside of South Dakota without approval by the receiving state. See SDCL 26–13–1. Here, before P.S.E. could be placed with Father, California would have to provide a satisfactory homestudy.”). | South Dakota has not directly ruled on the ICPC’s mandatory application to non custodial parents, but has suggested such an application in dicta within the context of a termination of parental rights case. |
| TN | <i>In re Courtney R.</i> , No. M2015-01024-COA-R3-JV, 2017 Tenn. App. LEXIS 263 (Ct. App. Tn. 2017) (ICPC does not apply to placement with non custodial parent, under plain language, where no suggestion father was unfit and court upholds placement with father) <i>In re Isaiah R.</i> , 480 S.W.3d 535, 558 (Tenn. Ct. App. 2015) (ICPC applies to placement of a child’s great uncle) <i>In re Brian M.</i> , No. E2014-00941-COA-R3-PT (Tenn. Ct. App. Jan. 6, 2015) (upheld under abuse of discretion trial court’s decision to terminate incarcerated father’s parental rights, and not continue proceedings in the face of potential grandparents placement, which was denied by ICPC process) | Tennessee has directly held that the ICPC does not apply to non custodial parents. |
| TX | <i>In the Interest of C.R.-A.A.</i> , 521 S.W.3d 893 (Tex. App. 2017) (plain language of Article III applies ICPC’s scope only to foster parents or preliminary to adoption, in circumstances where no suggestion of unfitness existed; invalidates Regulation 3 under Texas law). | Texas has directly ruled that the ICPC does not apply to non custodial parents. |
| UT | <i>P.H. v. C.S. (In re Adoption of B.H.)</i> , 447 P.3d 110, 2019 UT App. 103 (Utah Ct. App. 2019) (adoption set aside as trial court did not include in findings the ICPC requirements were complied with) <i>Alternative Options Serv. v. Chapman</i> , 106 P.3d 744, 752 (Utah Ct. App. 2004) (“Given the plain language of the ICPC as a whole, its purpose, its definition of the word "child," the usual meaning of the word "child," and the fair import of the notice | Utah does not appear to have ruled directly on whether the ICPC applies to non custodial parents. |

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| | requirement as phrased in the ICPC, we conclude that the ICPC, as adopted in Utah, does not apply to the unborn children of expectant mothers who come to Utah to give birth and place such children for adoption.”) | |
| VA | <p><i>Vargas v. Arlington Cnty. Dep’t of Human Servs.</i>, Record No. 0530-18-4 (Va. Ct. App. Nov. 13, 2018) (unpublished)</p> <p><i>Lannigan v. Virginia Beach Dept.</i>, Record No. 2503-10-1 (Va. Ct. App. Jul. 12, 2011) (court upholds termination of father’s parental rights, noting in dicta an ICPC home study and approval were required prior to placement as he resided in Maryland)</p> | <p>Virginia does not appear to have directly ruled on the ICPC’s application to non custodial parents. In at least one appellate holding however it has remarked in dicta that completion of a home study by an out of state, previously incarcerated father would be required prior to placement, as it upheld a termination of his parental rights.</p> |
| VT | <i>In re M.P.</i> , 2019 Vt. 69 (Vt. 2019) (court addresses ICPC issue after finding it not preserved to clarify for family court on remand, that the ICPC’s implementing statutes allow a court to order a ICPC home study, based upon the exception under Article VIII not applying, as the agency would have custody). | Vermont has ruled that the ICPC’s exception for parental placements under Article VIII does not apply when the state is making the placement, and in that context the ICPC may apply to non custodial parents. Vermont has not addressed any Article III scope or constitutional challenges to the ICPC’s application to non custodial parents. |
| WA | <p><i>In re Welfare of Ca.R.</i>, 365 P.3d 186, 191 Wash. App. 601 (2015) (limiting D.F-M and permitting an ICPC home-study where “the goal remains to investigate placement of the girls with [Mother] with Nevada’s ICPC assistance”; court notes mother’s concerns “premature” as no ICPC response was yet received; here issue is reunification after treatment plan, and ICPC not barred; partial dissent saying ICPC not applicable at all)</p> <p><i>In re D.F.-M</i>, 157 Wash. App. 179, 191 (2010) (ICPC does not apply to non-custodial</p> | Washington has held that the ICPC does not apply to non custodial parental placements. However, one subsequent appellate opinion has allowed, over a dissent, its application to support long term reunification efforts with a parent. |

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| | parents) | |
| WI | | Wisconsin does not appear to have ruled on the ICPC's application to non custodial parents. |
| WV | <i>In re T.T.</i> , No. 13-1147 (W. Va. Apr. 28, 2014) (noting in dicta application of ICPC home study process to non custodial father) <i>State of Florida v. Thornton</i> , 396 S.E.2d 475 (W.Va. Supreme Ct. App. 1990) | West Virginia does not appear to have directly held that the ICPC must be applied to non custodial parents. However, at least one appellate court has noted in dicta such an application, without further comment. |
| WY | <i>RGS v. State (In re KGS)</i> , 386 P.3d 1144 (Wyo. 2017) (court notes in dicta request for ICPC home study on non custodial parent) <i>MTM v. LD</i> , 41 P.3d 522 (Wyo. 2002) (court notes in dicta request for ICPC home study on non custodial parent) | Wyoming does not appear to have directly held that the ICPC must be applied to non custodial parents. However, at least one appellate court has noted in dicta such an application, without further comment. |